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**WHEN:** Tuesday, June 10, 2008  
9:00 a.m.–Noon

**WHERE:** Office of the Federal Register  
Conference Room, Suite 700  
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Washington, DC 20002

**RESERVATIONS:** (202) 741-6008



# Contents

Federal Register

Vol. 73, No. 108

Wednesday, June 4, 2008

## Agency for International Development

### NOTICES

Meetings:

Board for International Food and Agricultural Development, 31809

## Agricultural Research Service

### NOTICES

Intent to Grant Exclusive License, 31809

## Agriculture Department

See Agricultural Research Service

See Animal and Plant Health Inspection Service

See Commodity Credit Corporation

See Food and Nutrition Service

## Animal and Plant Health Inspection Service

### PROPOSED RULES

Import/Export User Fees, 31771–31780

## Coast Guard

### PROPOSED RULES

Safety Zones:

Fireworks, Central and Northern MA, 31785–31788

Fireworks Display; Upper Potomac River, Washington Channel, Washington Harbor, DC, 31782–31785

## Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

## Commodity Credit Corporation

### NOTICES

Public Hearing on New Entrant's 2008 Crop Cane Sugar Marketing Allotment, 31809–31810

## Community Development Financial Institutions Fund

### NOTICES

Bank Enterprise Award Program, 31917–31918

## Corporation for National and Community Service

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31831–31832

## Defense Department

### NOTICES

Base Closure and Realignment, 31832

Meetings:

Defense Health Board, 31832–31833

Defense Policy Board Advisory Committee, 31833

Defense Science Board, 31833–31834

Historical Advisory Committee, 31835

Strategic Environmental Research and Development Program, Scientific Advisory Board, 31835

## Education Department

### NOTICES

Applications for new awards for Fiscal Year (FY 2008):

Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, et al., 31835–31845

## Employment and Training Administration

### NOTICES

Negative Determination on Reconsideration:

Freescale Semiconductor, Inc.; New Product Intro.; Tempe, AZ, 31886–31887

G-III Apparel Group; Starlo Dresses Div., Computer Patterns Team; New York, NY, 31887–31888

Revised Determination on Reconsideration:

Household Utilities, Inc.; Kiel, WI, 31888

## Employment Standards Administration

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31888–31890

## Energy Department

See Federal Energy Regulatory Commission

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31845

Electric Transmission Congestion Study, 31846–31847

## Environmental Protection Agency

### RULES

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code (F019), 31756–31769

Tolerance Exemption:

2-Oxepanone, Homopolymer, 31753–31756

### PROPOSED RULES

Proposed Tolerance Actions:

Aldicarb, Ametryn, 2,4-DB, Dicamba, Dimethipin,

Disulfoton, Diuron, et al., 31788–31807

### NOTICES

Draft Toxicological Review of Beryllium and Compounds: In Support of the Summary Information in the Integrated Risk Information System, 31861–31862

Filing of Pesticide Petitions for Residues of Pesticide

Chemicals in or on Various Commodities, 31862–31864

Meetings:

Science Advisory Board, 31864–31865

Science Advisory Board Asbestos Committee, 31865–31866

Total Coliform Rule Distribution System Advisory Committee, 31866–31867

Product Cancellation Order for Pesticide Products

Containing Denatonium Benzoate as an Active Ingredient, 31867–31868

Rodenticides Final Risk Mitigation Decision; Notice of Availability, 31868–31869

## Executive Office of the President

See Presidential Documents

## Federal Aviation Administration

### RULES

Airworthiness Directives:

Various Transport Category Airplanes Equipped with Auxiliary Fuel Tanks Installed in Accordance with Certain Supplemental Type Certificates, 31749–31752

**PROPOSED RULES**

## Airworthiness Directives:

Sikorsky Aircraft Corporation Model S-76A, B, and C Helicopters, 31780–31782

**NOTICES**

## Meetings:

RTCA Program Management Committee, 31909

RTCA Special Committee 210, Cabin Systems and Equipment, 31909–31910

Special Committee 209, ATRBS [Mode S Transponder MOPS Maintenance, 31910

Petition for Exemption Received, 31910–31911

**Federal Communications Commission****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31869–31870

**Federal Energy Regulatory Commission****NOTICES**

Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests, 31849–31850

Application for Transaction Approval Under Federal Power Act Section 203 of Black Hills Generation, Inc., et al., 31850–31853

## Applications:

CenterPoint Energy Gas Transmission Co., 31853

New Home Storage, LLC, 31853–31854

Transcontinental Gas Pipe Line Corp., 31854–31855

Combined Notice of Filings, 31847–31849

Entegra Power Group LLC et al., submits a joint application for approval under Section 203 of the Federal Power Act, 31855–31856

## Filing

Abel, James E., 31856

## Filings:

Nelson, W.T. III, 31857

Filing via the Internet; Discontinuation of Text Version of Commission Issuances, 31856

Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization:

CBA Endeavors, LLC, 31847

Glacial Energy Holdings, LLC, 31857

Walnut Creek Energy, LLC, 31857–31858

## Notice of Application:

Wyoming Interstate Company, Ltd., 31858–31859

## Notice of Filing:

Duane, Elizabeth Stevens, 31859

Murphy, Dennis J., 31859

## Supplemental Filing Notice:

Lempster Wind, LLC, 31859–31860

Montgomery L'Energia Power Partners LP, 31860

Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization, 31860–31861

**Federal Maritime Commission****NOTICES**

Agreements Filed, 31870

Ocean Transportation Intermediary License Applicants, 31870–31871

**Federal Railroad Administration****NOTICES**

Petition for Waiver of Compliance, 31911–31913

Petition for Waiver of Compliance; Correction, 31913

Relief from CFR Title 49, Part 236 Requirements;

Applicaton for Approval of Discontinuance or

Modification of a Railroad Signal System, 31913–31914

**Federal Reserve System****NOTICES**

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies, 31872

Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 31872

**Financial Management Service**

See Fiscal Service

**Fiscal Service****NOTICES**

Surety Companies Acceptable on Federal Bonds—Termination:

Capital City Insurance Company, Inc., 31918

**Fish and Wildlife Service****NOTICES**

Availability of Application to Amend Permit; Request for Comments, 31875

Endangered and Threatened Species Permit Applications, 31875–31876

## Intent:

Tehachapi Uplands Multi-species Habitat Conservation Plan, 31876–31877

Privacy Act; Systems of Records, 31877–31878

Receipt of Application of Endangered Species Recovery Permits, 31878–31879

**Food and Nutrition Service****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31810–31811

**Foreign-Trade Zones Board****NOTICES**

Foreign-Trade Zone 106—Oklahoma City, OK; Application for Manufacturing Authority, Industrial Gasket, Inc./ International Group, 31811–31812

Foreign-Trade Zone 147—Reading, Pennsylvania,

Application for Reorganization and Expansion, 31812

Foreign-Trade Zone 50 Long Beach, California, Application for Subzone, Michelin North America, Inc., 31812–31813

Foreign-Trade Zone 79—Tampa, FL, Application for Temporary/Interim Manufacturing Authority, etc., 31813

**Health and Human Services Department**

See Health Resources and Services Administration

See National Institutes of Health

**NOTICES**

## Meetings:

Public Health Emergency Medical Countermeasures

Enterprise Stakeholders 2008 Workshop, 31872–31873

**Health Resources and Services Administration****NOTICES**

## Meetings:

National Advisory Council on the National Health

Service Corps, 31873

## Request for Nominations:

Advisory Committee on Interdisciplinary, Community-Based Linkages, 31873

**Homeland Security Department**

See Coast Guard

**Indian Affairs Bureau****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31879–31880

**Interior Department**

See Fish and Wildlife Service

See Indian Affairs Bureau

See Land Management Bureau

See National Park Service

**International Trade Administration****NOTICES**

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 31813–31816

**Justice Department**

See Justice Programs Office

See National Institute of Corrections

**Justice Programs Office****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31883

**Labor Department**

See Employment and Training Administration

See Employment Standards Administration

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31885–31886

**Land Management Bureau****NOTICES**

Meetings:

New Mexico Resource Advisory Council, 31880

Public Land Orders:

Partial Revocation of Public Land Order Nos. 1391 et al., and Revocation of Public Land Order No. 4664; Utah, 31880–31881

Revocation of Two Secretarial Orders; New Mexico (Public Land Order No. 7709), 31881

Revocation of Two Withdrawal Orders for Provo River Reclamation Project; UT, 31881–31882

**Merit Systems Protection Board****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31890–31891

**National Highway Traffic Safety Administration****NOTICES**

Global Agreement; Electronic Stability Control NHTSA's Activities under the United Nations Economic Commission for Europe (1998), 31914–31915

**National Institute of Corrections****NOTICES**

Solicitation for a Cooperative Agreement: Document—  
A Guide to Planning Jail Programs, 31883–31885

**National Institutes of Health****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31874

Meetings:

National Institute on Drug Abuse Special Emphasis Panel, 31875

**National Oceanic and Atmospheric Administration****RULES**

Fisheries of the Northeastern United States:

Recreational Management; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2008, 31769

Magnuson-Stevens Act Provisions; Northeast Multispecies Fishery:

Allocation of Trips to Closed Area II Yellowtail Flounder Special Access Program, 31770

**PROPOSED RULES**

Magnuson-Stevens Act Provisions:

Proposed Environmental Review Process for Fishery Management Actions; Meeting Announcements, 31807–31808

**NOTICES**

Issuance of Permit Amendment:

Endangered Species and Marine Mammals (File No. 10014-01), 31816

Receipt of Application and Proposed Incidental Take

Authorization:

Taking Marine Mammals Incidental to Specified Activities; Offshore Exploratory Drilling in Beaufort Sea off AK, 31816–31831

**National Park Service****NOTICES**

Intent to Terminate the Environmental Impact Statement

Process:

Special Resource Study, Virginia Key Beach Park, Biscayne Bay, FL, 31882–31883

**National Science Foundation****NOTICES**

Permit Applications Received under the Antarctic Conservation Act of 1978, 31891

**Neighborhood Reinvestment Corporation****NOTICES**

Meetings; Sunshine Act, 31891–31892

**Nuclear Regulatory Commission****NOTICES**

Combined License Application:

Progress Energy Carolinas; Correction, 31892

Confirmatory Order:

Global X-Ray & Testing Corp.; Houma, LA, 31892–31894

Draft Environmental Assessment and Finding of No

Significant Impact:

Dominion Nuclear Connecticut, Inc.; Millstone Power Station, Unit 3; Related to Proposed License Amendment, etc., 31894–31899

Meetings:

Progress Energy Carolinas, Inc.; Shearon Harris (Units 2 and 3), 31899–31903

Withdrawal of Application for Amendment to Facility Operating Licenses, 31903

**Presidential Documents****PROCLAMATIONS**

*Special observances:*

Black Music Month (Proc. 8264), 31919–31922

Great Outdoors Month (Proc. 8265), 31923–31924  
 Italian Independence Day (Proc. 8266), 31925–31926  
 National Child's Day (Proc. 8267), 31927–31928

#### **Public Debt Bureau**

*See* Fiscal Service

#### **Research and Innovative Technology Administration**

##### **NOTICES**

Agency Information Collection Activities; Proposals,  
 Submissions, and Approvals, 31915–31916

#### **Securities and Exchange Commission**

##### **NOTICES**

Self-Regulatory Organizations; Proposed Rule Changes:  
 American Stock Exchange LLC et al., 31903–31905  
 New York Stock Exchange LLC, 31905–31907

#### **Small Business Administration**

##### **NOTICES**

Intent to Waive the Nonmanufacturer Rule for Televisions,  
 31907

Seeking Exemption Under Section 312 of the Small  
 Business Investment Act, Conflicts of Interest:  
 Emergence Capital Partners SBIC, L.P., 31907

#### **State Department**

##### **NOTICES**

Agency Information Collection Activities; Proposals,  
 Submissions, and Approvals, 31907–31908  
 Determination Relating to Assistance to the Democratic  
 Republic of Congo, 31908  
 Meetings:  
 Defense Trade Advisory Group, 31908–31909

#### **Surface Transportation Board**

##### **NOTICES**

Union Pacific Railroad Co.; Temporary Trackage Rights  
 Exemption:  
 Illinois and Midland Railroad Co., 31916

Illinois Central Railroad Co., 31916–31917

#### **Transportation Department**

*See* Federal Aviation Administration

*See* Federal Railroad Administration

*See* National Highway Traffic Safety Administration

*See* Research and Innovative Technology Administration

*See* Surface Transportation Board

#### **Treasury Department**

*See* Community Development Financial Institutions Fund

*See* Fiscal Service

#### **Veterans Affairs Department**

##### **RULES**

Disease Subject to Presumptive Service Connection;  
 Correction, 31753

##### **NOTICES**

Privacy Act; Systems of Records, 31918

#### **Separate Parts In This Issue**

##### **Part II**

Executive Office of the President, Presidential Documents,  
 31919–31928

#### **Reader Aids**

Consult the Reader Aids section at the end of this issue for  
 phone numbers, online resources, finding aids, reminders,  
 and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents  
 LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov>  
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 settings); then follow the instructions.

**CFR PARTS AFFECTED IN THIS ISSUE**

---

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**3 CFR****Proclamations:**

8264 .....	31921
8265 .....	31923
8266 .....	31925
8267 .....	31927

**9 CFR****Proposed Rules:**

130 .....	31771
-----------	-------

**14 CFR**

39 .....	31749
----------	-------

**Proposed Rules:**

39 .....	31780
----------	-------

**33 CFR****Proposed Rules:**

165 (2 documents) .....	31782,
	31785

**38 CFR**

3 .....	31753
---------	-------

**40 CFR**

180 .....	31753
261 .....	31756
302 .....	31756

**Proposed Rules:**

180 .....	31788
-----------	-------

**50 CFR**

648 (2 documents) .....	31769,
	31770

**Proposed Rules:**

700 .....	31807
-----------	-------

# Rules and Regulations

Federal Register

Vol. 73, No. 108

Wednesday, June 4, 2008

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-0089; Directorate Identifier 2007-NM-117-AD; Amendment 39-15546; AD 2008-12-03]

RIN 2120-AA64

#### Airworthiness Directives; Various Transport Category Airplanes Equipped With Auxiliary Fuel Tanks Installed in Accordance With Certain Supplemental Type Certificates

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for various transport category airplanes. This AD requires deactivation of Rogerson Aircraft Corporation auxiliary fuel tanks. This AD results from fuel system reviews conducted by the manufacturer, which identified potential unsafe conditions for which the manufacturer has not provided corrective actions. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** This AD is effective July 9, 2008.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility,

U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5254; fax (562) 627-5210.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to various transport category airplanes. That NPRM was published in the **Federal Register** on October 25, 2007 (72 FR 60600). That NPRM proposed to require deactivation of Rogerson Aircraft Corporation auxiliary fuel tanks.

##### Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

#### Request To Remove Supplemental Type Certificate (STC) From Applicability

Southeast Aero-Tek requests that we remove STC SA1054NW from the applicability of the NPRM. The commenter states that this STC has been purchased from Rogerson and assigned to the FAA's Atlanta Aircraft Certification Office (ACO).

We disagree with the request. STC SA1054NW is not compliant with Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83), included in a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001).

In a letter dated July 30, 2007, Rogerson states that ownership of STC SA1054NW was transferred to Executive Jet Aircraft Co., Ltd. In this case, although the Atlanta Aircraft Certification Office (ACO) has geographic responsibility, the Los Angeles ACO is the appropriate office to review and approve alternative methods

of compliance to the requirements of this AD. This AD is intended to require deactivation of all affected auxiliary fuel tanks for which Rogerson was the original STC holder, regardless of current ownership of the associated STCs. We have not changed the AD regarding this issue.

#### Request To Extend Compliance Time: Lack of Notification

In a comment submitted December 5, 2007, Dallah Albaraka states that it received no FAA notification of the NPRM and discovered its existence only "recently." The commenter questions whether the outreach provisions of the Regulatory Flexibility Act were properly exercised, given the significant economic impact, and a lack of other comments posted from other affected operators, which the commenter attributes to lack of notification. Dallah Albaraka adds that the proposed December 2008 deadline is insufficient for an operator to budget and acquire alternative methods to conduct air operations. For Dallah Albaraka, the proposed deactivation will require divesting an existing airplane and acquiring a new airplane with a range that meets operational needs. Dallah Albaraka will not be able to do this by December 2008.

We infer that the commenter is requesting an extension of the compliance time. We disagree that the compliance time should be extended. The compliance time specified in this AD is necessary to prevent the unsafe condition. The outreach provisions of the Regulatory Flexibility Act to which the commenter refers apply only when a rulemaking action will have a significant economic impact on a substantial number of small businesses. Based on the estimated cost of compliance with the actions directly required by this AD, we determined that this rulemaking action will not have a significant economic impact. However, the NPRM would not prohibit extended range operations using auxiliary fuel tanks, if the tanks are compliant with SFAR 88 requirements. We have made every effort to communicate with industry and operators about the requirements of complying with SFAR 88, through FAA-sponsored seminars and regulatory amendments and provisions for compliance. We do not individually notify persons of proposed

ADs that might affect them. Instead, government agencies publish proposed rules in the **Federal Register** to notify the public and solicit comments. As previously stated, this AD was first published as a proposal in the **Federal Register**. Individuals should frequently monitor the **Federal Register's** publications for proposed rules that may affect them.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this AD, we are including this same compliance date in this AD. However, ADs apply to only U.S. registered airplanes. If the commenter's affected airplanes are not registered in the U.S., the commenter may wish to discuss the requirements of this AD with the authority for the country of registry. We have not changed the final rule regarding this issue.

#### **Request To Extend Compliance Time: Lack of Manufacturer Support**

Marbyia Investments requests that we extend the deadline to comply with the proposed actions. Based on Rogerson's lack of response to the SFAR 88 requirements, Marbyia and the other operators of Rogerson systems must make alternative arrangements to comply.

We disagree with the request to extend the compliance time for the reasons explained in our response to the previous comment. In addition, this commenter did not request a specific compliance time or present any data that would support use of a different method of compliance or justify an extension of the compliance time. However, ADs apply to only U.S. registered airplanes. It is our understanding that the commenter's affected airplanes are not registered in the U.S. If this is the case, the commenter may wish to discuss the requirements of this AD with the authority for the country of registry. We have not changed the final rule regarding this issue.

#### **Requests To Revise Cost Estimate**

Dallah Albaraka states that we greatly underestimated the costs to comply with the proposed actions. The commenter asserts that deactivating the auxiliary tanks will have a significant detrimental impact on the long-range

capabilities of each airplane. The result will be greater operational costs necessary for operators to find alternative modes of travel, incur additional takeoffs and landings, or acquire other airplanes with the necessary range. Marbyia Investments adds that the consequences of the STC suspension will create large financial and operational burdens, probably making the future use of its aircraft untenable.

Dallah Albaraka also asserts that, because of the payload detriment of hundreds of pounds of empty tanks, no operator would deactivate the tanks without removing them from the airplane. The commenter requests that we revise the cost estimate to include costs to remove and dispose of the tanks as potential hazardous materials. In addition, the commenter requests that we include the cost of developing and obtaining a "separate design approval" since this conditional burden would be borne by the operators.

Dallah Albaraka also states that deactivating the auxiliary tank would significantly decrease the value of the airplane. Without the long-range capability provided by the auxiliary tanks, Dallah Albaraka states that its Model 727 airplane would be inoperable, and attempts to market the airplane have been unsuccessful due to the potential effect of the NPRM.

Another commenter, Southeast Aero-Tek, notes that, because of the construction of the "box and bladder," accessing the bladders would necessitate removing the boxes, and removing the bladders would involve several major structural repairs and plumbing modifications.

We infer that the commenters are requesting that we revise the cost estimate in the NPRM to account for the additional costs referred to in their comments. We disagree. The cost information in an AD generally includes only the direct costs of the specific actions required by this AD. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate. We have not changed the final rule regarding this issue.

#### **Request To Revise NPRM To Require Viable Modification**

Dallah Albaraka requests that we delay issuing the final rule until Rogerson can supply service information. Since the NPRM specifies a modification that would allow continued use of the tanks, the operator

is burdened with developing an STC as an alternative method of compliance to the proposed deactivation. The commenter states that, if this is the only viable option to operators that need the extended range provided by the auxiliary tanks, we should coordinate development of the STC with Rogerson, and revise the AD to require the STC modification as the primary compliance method.

We do not agree to delay the issuance of this AD. In many cases, manufacturers do develop modifications to correct unsafe conditions. In this case, Rogerson has chosen not to do so. Our obligation is to ensure that airplanes with the subject auxiliary fuel tanks are safe to operate. In the absence of a commitment by Rogerson to develop the necessary modifications, we have no other course of action to ensure the safe operation of the affected airplanes than to require the deactivation of the tanks.

#### **Request To Revise NPRM Based on Differential Use and Configuration**

Dallah Albaraka states that the NPRM does not consider the various STC configurations for the auxiliary tank installation and the corresponding levels of safety they provide. The commenter adds that the NPRM does not consider operators' varying levels of utilization of the affected airplanes.

We infer that the commenter is requesting that we revise the NPRM to provide unique requirements based on airplane configuration and utilization rates. We disagree. Regardless of utilization, the fuel tanks that are installed in accordance with the referenced STCs exhibit unsafe conditions. These unsafe conditions must be corrected to provide an acceptable level of safety. We have not changed the final rule in this regard.

#### **Request To Allow Alternative Methods**

Dallah Albaraka states that the NPRM does not provide for inspections as a way to extend the compliance time. The commenter states that periodic verification of the system condition and operation would address all aspects identified as safety concerns in the proposed AD. In addition, the commenter notes that the NPRM describes safety concerns associated with "dry running" the fuel pumps. The commenter asserts that these concerns were addressed for Boeing Model 727 airplanes by simple operational limitations (including placards and AFM revisions), as specified in AD 2005-13-40, amendment 39-14177 (70 FR 37659, June 30, 2005). The commenter states that those limitations

ensure that the fuel pumps are not operated when the tanks are empty. The commenter requests that we revise the AD to provide other ways to comply with the NPRM other than by deactivating the auxiliary fuel tanks.

We disagree. AD 2005-13-40 addresses one unique unsafe condition associated with the fuel pumps installed in a Boeing-designed auxiliary fuel tank system. In the case of the STCs affected by this AD, there are other potential unsafe conditions for which simple operational limitations would not be effective. We have not changed the final rule regarding this issue.

**Request To Revise Compliance Method**

Southeast Aero-Tek disagrees with the Appendix A criteria provided in the NPRM. Service bulletins containing similar criteria have been rejected. According to the commenter, the only acceptable compliance method should involve removing the system and restoring affected airplanes to their original configuration—consistent with the service bulletins.

We partially agree. We have no record of the commenter’s service bulletins being rejected. But the NPRM does provide for the complete removal of the system, when additional information is

provided to and approved by the FAA. The intent of the NPRM is to prevent usage of Rogerson auxiliary tanks by their deactivation. Any approved service bulletin for complete removal would meet the intent of this AD. We have not changed the final rule regarding this issue.

**Request for Consideration of Specific Proposal**

Southeast Aero-Tek states that the cylindrical tank system could retain its bleed air system to purge the tanks with bleed air if the vent valve were opened.

We infer that the commenter is proposing a specific solution to one issue related to tank deactivation. Such a proposal should instead be submitted to the FAA as a request for approval of an alternative method of compliance (AMOC) in accordance with the provisions of paragraph (h) of this AD. However, the commenter should note that its request is not consistent with the deactivation criteria stated in paragraph (3) of Appendix A of this AD.

**Information Collection Approval**

Paragraph (f) of this AD has been revised to note the Office of Management and Budget’s approval of

the information collection requirements in this AD.

**Request To Correct Typographical Error**

Southeast Aero-Tek notes an incorrect title in Appendix A, paragraph (4), of the NPRM, for AC 25-8. We have revised the final rule accordingly.

**Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

**Costs of Compliance**

There are about 148 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for the 39 U.S.-registered airplanes to comply with this AD. Based on these figures, the estimated costs for U.S. operators could be as high as \$252,720 to submit the report and prepare the deactivation procedures, and \$140,400 to deactivate the tank.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Individual cost
Report .....	1	\$80	None	\$80, per airplane.
Preparation of tank deactivation procedure .....	80	80	None	\$6,400, per airplane.
Physical tank deactivation .....	30	80	\$1,200	\$3,600, per airplane.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. “Subtitle VII: Aviation Programs” describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by adding the following new AD:

**2008-12-03 Various Transport Category Airplanes:** Amendment 39-15546. Docket No. FAA-2007-0089; Directorate Identifier 2007-NM-117-AD.

**Effective Date**

(a) This airworthiness directive (AD) is effective July 9, 2008.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to airplanes, certificated in any category and equipped with auxiliary fuel tanks installed in accordance with specified Supplemental

Type Certificates (STCs), as identified in Table 1 of this AD.

TABLE 1.—AFFECTED AIRPLANES

Airplanes	Auxiliary tank STC
Boeing Model 707 airplanes .....	SA4053WE, SA1308NM
Boeing Model 727–100 series airplanes .....	SA2970WE, SA3674WE, SA3157WE, SA3319WE, SA3559WE, SA2734WE, SA3920NM, SA3810WE, SA1979NM, SA1398NM, SA3483WE
Boeing Model 727–200 series airplanes .....	SA3065WE, SA1051NW
Boeing Model 737–200 series airplanes .....	SA1082NW, SA2153WE, SA1054NW
Boeing Model 737–400 and –500 series airplanes .....	SA3992NM, SA3980NM
Boeing Model 767–200 series airplanes .....	SA5544NM
British Aerospace Model 1–11–400 series airplanes .....	SA1995WE, SA1626WE, SA3819WE, SA2971WE
McDonnell Douglas Model DC–9–15 and DC–9–15F airplanes .....	SA3558WE, SA2587WE, SA1050NW
McDonnell Douglas Model DC–9–32F (C–9B) airplanes .....	SA3436NM, SA3495NM

**Unsafe Condition**

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Report**

(f) Within 45 days after the effective date of this AD, submit a report to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Information collection requirements in this AD are approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and are assigned OMB Control Number 2120–0056. The report must include the following information:

- (1) The airplane registration and auxiliary tank STC number installed.
- (2) The usage frequency in terms of total number of flights per year and total number of flights for which the auxiliary tank is used.

**Prevent Usage of Auxiliary Fuel Tanks**

(g) On or before December 16, 2008, deactivate the auxiliary fuel tanks, in accordance with a deactivation procedure approved by the Manager of the Los Angeles ACO. Any auxiliary tank component that remains on the airplane must be secured and must have no effect on the continued operational safety and airworthiness of the airplane. Deactivation may not result in the need for additional instructions for continued airworthiness.

**Note 1:** Appendix A of this AD provides criteria that should be included in the deactivation procedure. The proposed deactivation procedures should be submitted to the Los Angeles ACO as soon as possible to ensure timely review and approval.

**Note 2:** For technical information, contact John Cox, Director of Engineering, Rogerson Aircraft Corporation, 16940 Von Karman, Irvine, California 92606; phone (949) 442–2381; fax (949) 442–2311.

**Alternative Methods of Compliance (AMOCs)**

- (h)(1) The Manager, Los Angeles ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.
- (2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

**Material Incorporated by Reference**

- (i) None.

**Appendix A—Deactivation Criteria**

The auxiliary fuel tank deactivation procedure required by paragraph (g) of this AD should address the following actions.

- (1) Permanently drain auxiliary fuel tanks, and clear them of fuel vapors to eliminate the possibility of out-gassing of fuel vapors from the emptied auxiliary tank.

**Note:** If applicable, removing the bladder might help eliminate out-gassing.

- (2) Disconnect all electrical connections from the fuel quantity indication system (FQIS), fuel pumps if applicable, float switches, and all other electrical connections required for auxiliary tank operation, and stow them at the auxiliary tank interface.
- (3) Disconnect all pneumatic connections if applicable, cap them at the pneumatic source, and secure them.
- (4) Disconnect all fuel feed and fuel vent plumbing interfaces with airplane original equipment manufacturer (OEM) tanks, cap them at the airplane tank side, and secure them in accordance with a method approved by the FAA; one approved method is specified in AC 25–8 Fuel Tank Systems

Installations. In order to eliminate the possibility of structural deformation during cabin decompression, leave open and secure the disconnected auxiliary fuel tank vent lines.

- (5) Pull and collar all circuit breakers used to operate the auxiliary tank.

- (6) Revise the weight and balance document, if required, and obtain FAA approval.

(7) Amend the applicable sections of the applicable airplane flight manual (AFM) to indicate that the auxiliary fuel tank is deactivated. Remove auxiliary fuel tank operating procedures to ensure that only the OEM fuel system operational procedures are contained in the AFM. Amend the Limitations Section of the AFM to indicate that the AFM Supplement for the STC is not in effect. Place a placard in the flight deck indicating that the auxiliary tank is deactivated. The AFM revisions specified in this paragraph may be accomplished by inserting a copy of this AD into the AFM.

(8) Amend the applicable sections of the applicable airplane maintenance manual to remove auxiliary tank maintenance procedures.

(9) After the auxiliary fuel tank is deactivated, accomplish procedures such as leak checks and pressure checks deemed necessary before returning the airplane to service. These procedures must include verification that the airplane FQIS and fuel distribution systems have not been adversely affected.

(10) Include with the operator's proposed procedures any relevant information or additional steps that are deemed necessary by the operator to comply with the deactivation and return the airplane to service.

Issued in Renton, Washington, on May 29, 2008.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–12413 Filed 6–3–08; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900-AG15

#### Disease Subject to Presumptive Service Connection; Correction

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to the regulations of the Department of Veterans Affairs (VA) that governs presumptive service connection for certain diseases from exposure to ionizing radiation during military service. This correction is required in order to amend a cross-reference in the regulation. No substantive change to the content of the regulations is being made by this correcting amendment.

**DATES:** *Effective Date:* June 4, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Tracy Wang, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-4902.

**SUPPLEMENTARY INFORMATION:** VA published a final rule in the **Federal Register** on April 27, 1993 (See 58 FR 25563), to implement Section 2 of the Veterans' Radiation Exposure Amendments of 1992, Public Law 102-578, which amended 38 U.S.C. 1112(c) to repeal the requirement that, to be presumed service connected, specified diseases of veterans who participated in a radiation-risk activity to become at least 10 percent disabling within 40 years after the veterans' last exposure to radiation. Accordingly, VA removed 38 CFR 3.309(d)(3) and redesignated § 3.309(d)(4) as the new § 3.309(d)(3). However, VA neglected to amend the reference to the redesignated § 3.309(d)(3) that appears at § 3.309(d)(3)(vii)(C). This document corrects that omission by removing "(d)(4)(vi)" and adding, in its place, "(d)(3)(vi)".

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: May 29, 2008.

**William F. Russo,**

*Director of Regulations Management.*

■ For the reasons set out in the preamble, VA is correcting 38 CFR part 3 as follows.

## PART 3—ADJUDICATION

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

#### § 3.309 [Corrected]

■ 2. In § 3.309(d)(3)(vii)(C), remove "paragraph (d)(4)(vi)" and add, in its place, "paragraph (d)(3)(vi)".

[FR Doc. E8-12378 Filed 6-3-08; 8:45 am]

**BILLING CODE** 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2008-0096; FRL-8362-8]

#### 2-Oxepanone, homopolymer; Tolerance Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of 2-oxepanone, homopolymer; (CAS Reg. No. 24980-41-4) when used as an inert ingredient in a pesticide chemical formulation. Solvay Chemicals, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-oxepanone, homopolymer.

**DATES:** This regulation is effective June 4, 2008. Objections and requests for hearings must be received on or before August 4, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0096. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [www.regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly

available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:**

Karen Samek, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8825; e-mail address: [samek.karen@epa.gov](mailto:samek.karen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

##### A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Access Electronic Copies of This Document?

In addition to accessing an electronic copy of this **Federal Register** document

through the electronic docket at <http://www.regulations.gov>, you may access this "Federal Register" document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2008-0096 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 4, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2008-0096, by one of the following methods.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

## II. Background and Statutory Findings

In the **Federal Register** of March 12, 2008 (73 FR 13225) (FRL-8354-6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of a pesticide petition (PP 8E7321) by Solvay Chemicals, Inc., 3333 Richmond Avenue, Houston, TX., 77098. The petitioner requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-oxepanone, homopolymer; CAS Reg. No. 24980-41-4. That notice included a summary of the petition prepared by the petitioner. There were no comments in response to the Notice of Filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue," and specifies factors EPA is to consider in establishing an exemption.

### III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be

chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

### IV. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers that should present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-Oxepanone, homopolymer conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers:

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 52,000 daltons is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-oxepanone, homopolymer meets all the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-oxepanone, homopolymer.

#### V. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-oxepanone, homopolymer could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-oxepanone, homopolymer is 52,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-oxepanone, homopolymer conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

#### VI. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider "available information" concerning the cumulative effects of a particular chemical's residues and "other substances that have a common mechanism of toxicity." EPA does not have, at this time, available data to determine whether 2-oxepanone, homopolymer has a common mechanism of toxicity with

other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to 2-oxepanone, homopolymer and any other substances and 2-oxepanone, homopolymer does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that 2-oxepanone, homopolymer has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative>.

#### VII. Additional Safety Factor for the Protection of Infants and Children

Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-natal and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-oxepanone, homopolymer, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

#### VIII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-oxepanone, homopolymer.

#### IX. Other Considerations

##### A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

##### B. International Tolerances

The Agency is not aware of any country requiring a tolerance for 2-oxepanone, homopolymer nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

#### X. Conclusion

Accordingly, EPA finds that exempting residues of 2-oxepanone, homopolymer from the requirement of a tolerance will be safe.

#### XI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination*

with *Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

**XII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 12, 2008.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer to read as follows:

**§ 180.960 Polymers; exemptions from the requirement of a tolerance.**

\* \* \* \* \*

Polymer	CAS No.
* * * * *	*
2-oxepanone, homopolymer, minimum number average molecular weight (in amu) 52,000.	24980-41-4
* * * * *	*

[FR Doc. E8-11980 Filed 6-3-08; 8:45 am]

**BILLING CODE 6560-50-S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 261 and 302**

**[EPA-HQ-RCRA-2006-0984, FRL-8575-4]**

**RIN 2050-AG15**

**Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is amending the list of hazardous wastes from non-specific sources (called F-wastes) by modifying the scope of the EPA Hazardous Waste No. F019 (Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process). The Agency is amending the F019 listing to exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, provided that the wastes are not placed outside on the land prior to shipment to a landfill for disposal, and the wastes are placed in landfill units that are subject to or meet the specified landfill design criteria. This final action on the F019 listing does not affect any other wastewater treatment sludges either from the chemical conversion coating of aluminum, or from other industrial sources. Additionally, this rule amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) List of Hazardous Substances and Reportable Quantities so that the F019 listing description is consistent with the amendment to F019 under regulations for hazardous wastes from non-specific sources.

**DATES:** This final rule is effective on July 7, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-RCRA-2006-0984. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly

available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the OSWER Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744 and the telephone number for the RCRA Docket is (202) 566-0270.

**FOR FURTHER INFORMATION CONTACT:** For general information, review our Web site at <http://www.epa.gov/epaoswer/hazwaste>. For information on specific aspects of the rule, contact James Michael of the Office of Solid Waste (5304P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (E-mail address and telephone number: [michael.james@epa.gov](mailto:michael.james@epa.gov), (703) 308-8610).

**SUPPLEMENTARY INFORMATION:**

**General Information**

*Who Is Potentially Affected by This Final Rule?*

This final rule could directly affect businesses that generate certain wastes from the manufacturing of motor vehicles in the (1) automobile manufacturing industry and (2) light truck/utility vehicle manufacturing industry (NAICS codes 336111 and 336112, respectively). Other motor vehicle manufacturing industries (e.g., heavy duty truck or motor home manufacturing) are not affected by this rule. The wastes affected by this final rule are wastewater treatment sludges generated from the chemical conversion coating of aluminum using a zinc phosphating process and are currently listed as EPA Hazardous Waste No. F019 (see 40 CFR 261.31). These wastes will not be subject to the F019 listing, provided the wastes are not placed outside on the land prior to the shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301, or § 265.301. Impacts on potentially affected entities are summarized in Section VI of this Preamble. The "Regulatory Impact Analysis" (RIA) for this action presents an analysis of potentially affected entities and is available in the docket

established in support of this final rule. Entities potentially affected by this action are at least 7 current F019 generators within these two industries, consisting of four auto and three light truck/utility vehicle plants, and up to 42 other facilities in these two industries that may begin applying aluminum parts and could potentially generate regulated F019 waste without this final rule (based on 2005 Biennial Report data).<sup>1</sup> This action might also affect the 19 auto and light truck plants with prior F019 de-listings issued between 1997 and 2007, because this action could supplant their delisting status and conditions, depending upon the extent of state government voluntary adoption of this final rule.

To determine whether your facility is affected by this action, you should examine 40 CFR Parts 260 and 261 carefully, along with the final regulatory language amending Chapter I of the Code of Federal Regulations (CFR). This language is found at the end of this **Federal Register** notice. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

### Preamble Outline

- I. Legal Authority
- II. List of Acronyms
- III. Summary of This Action
- IV. Summary of the Proposed Action
  - A. Summary of Risk Assessment Approach Used

- B. Proposed Landfill Liner Design Options
- C. Proposed Options for Recordkeeping and Storage
- V. Rationale for This Final Rule and Response to Comments
  - A. Landfill Liner Conditions
  - B. The Need for Storage Requirements
  - C. Recordkeeping Requirements
  - D. Scope and Applicability of the Exemption
  - E. Applicability to Recycled Waste
  - F. Interrelationship Between the Exemption and Delistings
  - G. Waste Analysis
  - H. Other Issues
- VI. State Authorization
- VII. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Designation and List of Hazardous Substances and Reportable Quantities
- VIII. Relationship to Other Rules—Clean Water Act
- IX. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

K. Congressional Review Act

### I. Legal Authority

The hazardous waste regulations are promulgated under the authority of Sections 2002 and 3001(b) and (f), 3004(d)–(m) and 3007(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended, most importantly by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912, 6921(b), 6924(d)–(m) and 6927(a). These statutes combined are commonly referred to as the “Resource Conservation and Recovery Act” (RCRA) and will be referred to as such for the remainder of this Notice.

Because EPA is amending the national listing of F019, EPA believes the appropriate statutory authority is that found in section 3001(b), rather than the authority in section 3001(f). RCRA section 3001(f) pertains solely to the exclusion of a waste generated at a particular facility in response to a petition. Accordingly, neither the procedures nor the standards established in that provision, or in EPA’s regulations at 40 CFR 260.22 are applicable to this rulemaking.

Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9602(a) is the authority under which the CERCLA aspects of this rule are promulgated.

### II. List of Acronyms

#### ACRONYMS

Acronym	Definition
CBI .....	Confidential Business Information.
CERCLA .....	Comprehensive Environmental Response, Compensation, and Liability Act.
CFR .....	Code of Federal Regulations.
DRAS .....	Delisting Risk Assessment Software.
EPA .....	Environmental Protection Agency.
ICR .....	Information Collection Request.
IWEM .....	Industrial Waste Management Evaluation Model.
MSWLF .....	Municipal Solid Waste Landfill.
NAICS .....	North American Industrial Classification System.
NTTAA .....	National Technology and Transfer Act.
OMB .....	Office of Management and Budget.
OSWER .....	Office of Solid Waste and Emergency Response.
PRA .....	Paperwork Reduction Act.
RCRA .....	Resource Conservation and Recovery Act.
RFA .....	Regulatory Flexibility Act.
RQ .....	Reportable Quantity.
UMRA .....	Unfunded Mandates Reform Act.

<sup>1</sup> EPA, in partnership with the States, biennially collects information regarding the generation, management, and final disposition of hazardous

wastes regulated under RCRA. See the 2005 Biennial Report on the EPA Web site at <http://www.epa.gov/epaoswer/hazwaste/data/br05/index.htm>.

[www.epa.gov/epaoswer/hazwaste/data/br05/index.htm](http://www.epa.gov/epaoswer/hazwaste/data/br05/index.htm).

### III. Summary of This Action

In this notice, EPA is promulgating regulations that amend the list of hazardous wastes from non-specific sources under 40 CFR 261.31 by modifying the scope of EPA Hazardous Waste No. F019. The revised listing will now read:

F019—Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301 or § 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in § 261.31(b)(4)(i) of this section and paragraph § 261.31(b)(4)(ii) of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.

The Agency is amending the F019 listing to exempt the wastewater treatment sludge generated from zinc phosphating, when zinc phosphating is used in the automobile assembly process, provided the waste are not placed outside on the land prior to shipment to a landfill for disposal and the waste is disposed in a landfill unit subject, or otherwise meeting, certain liner requirements. Wastes that meet these conditions will be exempted from the listing from their point of generation, and will not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal (including the land disposal restrictions). The Agency is also requiring that the generator maintain records on site to show that the waste meets the conditions of the listing.

For the purposes of the F019 listing, motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). The motor vehicle manufacturing industry incorporates aluminum into vehicle parts and bodies for the purpose of making them lighter-weight and thus more capable of increasing gas mileage. However, when aluminum is incorporated into the body of an automobile, the conversion coating step in the manufacturing process

resulted in the generation of an RCRA-listed hazardous waste (F019) in the form of a wastewater treatment sludge from the conversion coating process. Wastewaters from the conversion coating of steel in the same industry do not generate a listed hazardous waste. By removing the regulatory controls under RCRA, EPA is facilitating the use of aluminum in motor vehicles. The Agency believes that the incorporation of aluminum will be advantageous to the environment since lighter-weight vehicles are capable of achieving increased fuel economy and associated decreased exhaust air emissions. These modifications to the F019 listing will not affect any other wastewater treatment sludges either from the chemical conversion coating of aluminum, or from other industrial sources.

The Agency is also promulgating conforming changes to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list of Hazardous Substances and Reportable Quantities under 40 CFR 302.4 so that the F019 listing description is consistent with the changes to the F019 listing.

### IV. Summary of the Proposed Action

On January 18, 2007 (72 FR 2219), the Agency proposed to amend the list of hazardous wastes from non-specific sources (called F-wastes) under 40 CFR 261.31 by modifying the scope of the EPA Hazardous Waste No. F019 (Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process). Specifically, the Agency proposed to amend the F019 listing to exempt wastewater treatment sludge generated from zinc phosphating, when zinc phosphating is used in the automobile assembly process and provided the waste is disposed in a landfill unit subject to certain liner design criteria. A summary of the proposed listing amendment is presented below. More detailed discussions are provided in the preamble to the proposed rule and in the background documents included in the docket for this rule.

#### A. Summary of Risk Assessment Approach Used

The Agency's risk assessment evaluated risks to human health and the environment from a landfill disposal scenario. (See the "Technical Support Document: Assessment of Potential Risks from Managing F019 Waste from the Motor Vehicle Manufacturing

Industry" in the docket for this rulemaking for a detailed description of the analysis that the Agency performed, hereinafter referred to as the Technical Support Document.) EPA initially evaluated the potential risks posed by the volumes of F019 waste from the automobile manufacturers that might be disposed of in an unlined nonhazardous waste landfill, and then evaluated potential risks from disposal in landfills that use different liner technologies. The risk evaluation used several environmental fate, transport, and exposure/risk models: the Delisting Risk Assessment Software (DRAS), version 2.0, the Industrial Waste Management Evaluation Model (IWEM),<sup>2</sup> and EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP). See the Technical Support Document for a detailed description of the use of these models and their peer review.

EPA's Regional Offices, and certain states, use the DRAS model to determine whether to grant requests for delistings under 40 CFR 260.22. The RCRA regulations provide a form of relief for listed wastes through a site-specific process known as "delisting." Under this process, any person may petition EPA to remove its waste from regulation under the lists of hazardous wastes contained in Part 261. EPA has granted delistings to a number of motor vehicle manufacturing facilities that generate F019 wastes.

EPA used the DRAS model to calculate the levels of constituents in a waste that would not exceed the 10<sup>-5</sup> risk level for carcinogens (i.e., less than or equal to an increased probability of developing cancer that is one in one hundred thousand).<sup>3</sup> For non-carcinogens, EPA used a "hazard quotient" (HQ) less than or equal to 1.0; the hazard quotient is the ratio of an individual's chronic daily exposure to a standard, such as the chronic reference dose.<sup>4</sup> Using the DRAS model, EPA evaluated risks from potential exposures

<sup>2</sup> IWEM is the groundwater modeling component of the *Guide for Industrial Waste Management*, used for recommending appropriate liner system designs for the management of RCRA Subtitle D industrial waste.

<sup>3</sup> These risk levels are consistent with those discussed in EPA's hazardous waste listing determination policy (see the discussion in a proposed listing for wastes from the dye and pigment industries, December 22, 1994; 59 FR 66072).

<sup>4</sup> The reference dose is "an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily oral exposure for a chronic duration (up to a lifetime) to the human population (including sensitive subpopulations) that is likely to be without an appreciable risk of deleterious effects during a lifetime." See EPA's Integrated Risk Information System (IRIS).

to waste constituents resulting from releases to groundwater, air (both waste particles and volatile emissions), and surface water. See the Technical Support Document for a complete description of the scenario that was modeled using DRAS, the human health and ecological exposure pathways, and the data sources the Agency used as model inputs. For the purposes of this national rulemaking, EPA chose to adopt a conservative modeling approach in order to assure continued protection of human health and the environment. While this process was used to determine if these wastes would pose a risk if disposed of in unlined landfills, the Agency notes that facilities can petition for a separate site-specific delisting of their F019 wastestreams based on their chemical composition.

To identify waste constituents, EPA reviewed information from 13 motor vehicle manufacturing facilities' delisting petitions. This included information on the specific chemicals used in the conversion coating process, and the analytical data received from the 13 facilities' delisting petitions. The Agency evaluated the chemicals that were detected in the F019 sludge from the analyses conducted by the petitioners for approximately 240 chemical constituents. EPA's evaluation assumed that the waste volume equaled the volume resulting from 20 to 30 years of disposal into a landfill (90,000 cubic yards).

Based on the assessment of the groundwater pathway using DRAS, the Agency determined that two constituents (arsenic and nickel) had maximum detected values that, in certain scenarios, exceeded the  $10^{-5}$  risk level or an HQ of 1. The DRAS modeling for unlined landfills yielded an estimated HQ of 3 for nickel, and an estimated individual excess lifetime cancer risk for arsenic of three in one hundred thousand. Thus, using conservative modeling and exposure assumptions, the Agency found that the projected levels for these two constituents could exceed these risk levels by up to a factor of three.

The potential risks found by the DRAS modeling were from the groundwater exposure pathway, therefore, units with liner systems should dramatically lessen releases to groundwater. DRAS does not have an option to model the impact of liners on landfill releases. To examine the potential impact of liners, the Agency compared the levels calculated by the Industrial Waste Management Evaluation Model (IWEM), for clay-

lined and composite-lined landfills.<sup>5</sup> The initial IWEM evaluation clearly showed that the use of a composite-lined landfill would result in risk levels for the two key constituents of concern, below  $10^{-5}$  for arsenic and an HQ of less than 1 for nickel. EPA also referred to the modeling performed for lined landfills in the recent listing rule for dye and pigment production wastes to show that composite-lined landfills provided significant protection compared to an unlined unit (February 24, 2005, 70 FR 9138).

The IWEM results for a clay-lined unit also indicated that a single clay liner offers added protection compared to an unlined unit. For nickel, the risk level achieved by a single clay liner was approximately 3-fold less than the risk level for an unlined unit. For arsenic, the risk level achieved by a single clay liner was approximately 7-fold less than the level for an unlined unit. Given that the DRAS results for these two constituents exceeded these levels by only a factor of 3, EPA concluded that disposal in a landfill with a single clay liner would also be sufficiently protective.

#### *B. Proposed Landfill Liner Design Options*

Based on the modeling results, EPA proposed two landfill design options under which F019 sludge from motor vehicle manufacturers would not be hazardous. Under option one, EPA proposed that the landfill unit must meet the liner requirements for municipal solid waste landfills (MSWLFs) in 40 CFR 258.40 or other liner designs containing a composite liner.<sup>6</sup> Under option two, the Agency proposed to also allow disposal in state-permitted municipal and industrial solid waste landfills, provided the landfill unit includes at least a single clay liner (this option would also allow disposal in the types of landfill units allowed under option one, i.e., units equipped with composite liners). The Agency sought comment on whether option two would provide any significant regulatory relief over option one. MSWLFs are required to have composite liners (or performance based equivalents), except for "existing" units (i.e., generally units that existed prior to

1993). Thus, EPA believes that most MSWLF units are likely to have composite liners (or equivalents). The Agency solicited comment on whether option two would be straightforward to implement or whether it will raise implementation or compliance issues for the waste generator, such as the availability of state standards for liners in older landfills, and on any issues that might be raised for recordkeeping and documentation.

#### *C. Proposed Options on Recordkeeping and Storage*

In the proposal, EPA noted that disposal in a landfill subject to or meeting the landfill design requirements was a condition of the exemption, so that if a generator does not fulfill this condition, the sludges would be F019 listed wastes and subject to the applicable Subtitle C requirements. The Agency encouraged generators to properly store the wastes that are claimed to be nonhazardous wastes to ensure that improper releases do not occur. Generators wishing to qualify for the exemption from the F019 listing would be required to maintain records to show that their wastes are placed in a landfill unit that meets the specified liner requirements. The Agency proposed a flexible performance standard that would allow the generator to demonstrate that shipments of waste were received by an appropriate landfill unit through various means. The proposal stated that a generator could use contracts with landfills and shipping documents to demonstrate that the landfill owner/operator used units that met the liner design requirements: The generator could also use bills of lading, manifests, or invoices documenting delivery. The proposed regulatory text (§ 261.31(b)(4)(iii)) specified the necessary records.

The Agency requested comment on whether the proposed recordkeeping requirements should be made conditions of the exemption, rather than established as separate recordkeeping requirements. In addition, the Agency sought comment on whether additional requirements or conditions would be necessary to ensure that the waste is not improperly disposed or released prior to disposal. The Agency also asked for comment on possible regulatory language that might be used to specify that the waste be stored so as to minimize releases to the environment. The Agency sought any information as to the current and likely sludge management practices at motor vehicle manufacturers. The Agency noted that, if such information indicated generators are already handling the waste to

<sup>5</sup> A composite liner as defined in § 258.40 consists of a combination of a synthetic liner and an underlying compacted soil/clay liner.

<sup>6</sup> Disposal in hazardous waste landfills would also be allowed, because the regulations in §§ 264.301 and 265.301 include composite liners. Federal regulations for municipal solid waste landfills require that new units (and lateral expansions of existing units) meet design criteria for composite liners and leachate collection systems (or other approved performance standards).

minimize releases, the Agency would consider this when deciding whether storage conditions are necessary.

#### V. Rationale for This Final Rule and Response to Comments

While all of the commenters generally supported the exemption, they differed over the types of management and landfill conditions that are necessary for the exempt waste. Some commenters also suggested that the Agency expand the scope of the exemption in various ways. After reviewing the comments, the Agency has decided to promulgate the final rule with limited revisions to the proposed regulation. This section will describe the revisions to the rule, which encompass the Agency's decision on a number of options presented in the proposal. This section also provides responses to the key comments received on the proposal. More details of the Agency's responses are contained in the document entitled "Response to Comments Document: Amendment to Hazardous Waste Listing Code F019 (Final Rule)", which is in the docket for this rulemaking.

##### A. Landfill Liner Conditions

The proposed exemption was conditioned on the disposal of the waste in a landfill meeting certain liner design requirements. The proposal presented two options for the landfill liner design. Under option one, the landfill unit would have a liner system that meets, or is subject to, the design requirements for an MSWLF (§ 258.40) or a Subtitle C waste landfill (§§ 264.301 and 265.301). Option two would also allow the generator the option of disposing the waste in a state permitted/authorized Subtitle D landfill (municipal or industrial) that is equipped with a single clay liner. The Agency sought comment on whether the second option would provide significant additional regulatory relief, and whether it would provide any special compliance or implementation issues.

Most commenters stated that the exemption should allow disposal of the exempt waste in any clay-lined landfill, and not be restricted to disposal in landfills that would typically have composite liners. Some commenters specifically supported the second option, arguing that this would provide more flexibility for possible disposal sites, which might be important for generators in remote locations. Commenters noted that this would not raise any special implementation, compliance, or recordkeeping problems, because generators would rely on state permitting authorities to identify adequate landfills. Other commenters

stated that the regulatory language of the exemption should not conflict with, but rather acknowledge, existing state regulations, e.g., it should allow disposal in a landfill unit "meeting state regulatory liner requirements." Another commenter stated that disposal should be limited to "permitted Subtitle C or D landfills."

The Agency has decided to adopt the second landfill liner option in the final rule. That is, the regulations will specify that the waste is exempt, provided the wastes are either disposed in a permitted Subtitle D (municipal or industrial) landfill unit that is equipped with at least a single clay liner, or in a unit that is subject to, or otherwise meets, the liner requirements for MSWLFs (§ 258.40) or hazardous waste landfills (§ 264.301 or § 265.301). The modeling performed for the proposed rule demonstrated that disposal of the waste in a landfill equipped with either a composite liner or a clay liner would be protective. The Agency believes that a clay liner is sufficiently protective and provides added regulatory flexibility for generators. As described in the proposed rule, the protective factor provided by a clay-lined unit compared to an unlined unit was sufficient to reduce risks from an unlined unit to below  $10^{-5}$  risk level or an HQ of 1.

The Agency also notes that the modeling performed for clay-lined landfills in the recent listing for dye and pigment production wastes (February 24, 2005, 70 FR 9138) showed that the clay-lined units provided a similar level of risk reduction for metals released from a landfill (i.e., the clay-lined unit reduced risks for metals by a factor of 3.2 to 3.8 compared to an unlined unit).<sup>7</sup> These results provide further support that the margin of protection offered by a single clay liner is sufficient.

The final rule will require the generator to document that the wastewater treatment sludge went to a permitted landfill that was equipped with at least a single clay liner. As discussed in the proposed rule, the generators may obtain information on the landfill units in question from the state permitting authorities (or the receiving landfill, if the facility has adequate documents, such as a permit to operate). It is the responsibility of the generator to document the adequacy of

<sup>7</sup> The modeling results for clay-lined units, while not specifically cited in the proposal, were included in the risk document for the Dyes and Pigments waste listing that was placed into the docket to support the conclusion that liners reduce risks for the exempt waste to below  $10^{-5}$  for carcinogens or an HQ of less than or equal to 1 for non-carcinogens.

the receiving landfill's design and to keep records that demonstrate that the landfill condition for disposal was met.

##### B. The Need for Storage Requirements

In the proposed rule, the Agency requested comment on the option of adding storage conditions to the exemption. The Agency also sought further information on the sludge management practices of the motor vehicle manufacturers generating F019 waste. The proposal presented some possible regulatory language that would require proper storage of sludges before disposal. Most commenters stated that storage conditions were unnecessary for the exempt sludge prior to shipment off site for disposal. Commenters stated that it was "standard industry-wide practice" for dewatering equipment and containers to be inside buildings, and for containers to be routinely covered when moved outside for shipment off site to prevent precipitation from entering the containers. These commenters also stated that requirements to constantly cover and uncover containers could cause, rather than prevent, spills. Two commenters, however, supported the concept of some storage conditions. One simply stated they concurred with the proposed regulatory language for storage. The other commenter suggested that the exempt waste should be regulated as hazardous until disposed in a landfill to ensure safe handling.

The Agency does not believe there is a need for detailed storage conditions or regulation of the waste as hazardous prior to disposal. The Agency has decided that detailed storage requirements or conditions are not necessary, given the known management practices for the waste. As noted in the proposed rule, during visits to vehicle manufacturing sites, the Agency found that dewatering equipment and containers were kept inside buildings, reducing any potential for releases. This is consistent with the comments provided by automobile manufacturers on the proposed rule. The Agency also expects, as commenters stated, that containers are kept covered when moved outside for transport off site to prevent the entrance of precipitation. The Agency has no information to suggest that such sludges have been stored improperly or that releases have occurred from on-site management of either F019 waste, or the formerly F019 wastes that were delisted. None of the 19 delistings that have been granted for this waste have imposed any special storage requirements for the delisted waste. Furthermore, as comments submitted by state authorities

noted, the exempt waste remains subject to regulation as an industrial solid waste.

Based on the analysis described in section IV.A of this notice, the Agency believes that the waste in question carries risk below the  $10^{-5}$  risk level or an HQ of 1 when properly disposed. The Agency evaluated potential releases of the sludge to air, surface water, and groundwater that may arise from the disposal of the waste in a landfill for 20 to 30 years, and found no significant risk, provided disposal occurs in units equipped with certain liner designs. This waste does not present any apparent acute risk (e.g., fire/explosion hazard, or highly toxic chemicals), and the relatively high water content of the sludge would also reduce the likelihood of any air dispersal of the sludge on site.

However, the Agency recognizes that commenters have some concerns over management practices for the waste prior to disposal. In lieu of detailed storage conditions, the Agency has decided to include regulatory language specifying that the waste must not be placed outside on the land prior to disposal. Given that the exemption is conditioned upon the ultimate disposal in an appropriate landfill, EPA believes that a requirement that the generator not place the waste on the land prior to disposal is implicit in that condition, and therefore the inclusion of this specific direction is reasonable. Such a prohibition addresses any potential risks from management of the waste on the land prior to shipment offsite. In the proposal, the storage conditions the Agency offered as an option included more specific requirements for how the waste must be stored prior to disposal. However, as noted above, generators appear to be managing the waste appropriately at this time, so a simpler direction prohibiting on land placement prior to disposal is sufficient.

The Agency believes that placement outside on the land in an uncontrolled manner creates a potential for release of toxic constituents from the waste. Also, the Agency's risk analysis indicated that the F019 waste at issue may present risks above the  $10^{-5}$  risk level (or an HQ of one) if disposed in an unlined land-based unit. The prohibition on land placement prior to disposal ensures that the waste is properly handled to avoid placement in an uncontrolled land area (which is analogous to an unlined landfill). Therefore, the Agency is adding language to the conditions of the exemption in § 261.31(a) that specifies that the generator cannot place the waste outside on the land prior to shipment for disposal at a landfill. The Agency is also deleting the language in

§ 261.31(b)(ii) from the proposed regulation, because the language is not needed; the conditions for the exemption are fully specified in the listing description in § 261.31(a). EPA has made minor changes to the regulation to make the exemption language consistent with the removal of the proposed language in § 261.31(b)(ii) and the renumbering of the recordkeeping requirements, originally proposed as § 261.31(b)(iii), as § 261.31(b)(ii) in the final rule.

Generators that do not meet the conditions (i.e., no outside placement on the land and disposal of the waste in a landfill unit that meets certain liner design criteria) would be subject to enforcement action. In such cases, the wastewater treatment sludges may be considered to be F019 listed hazardous waste from the point of their generation, and EPA could choose to bring an enforcement action under RCRA section 3008(a) for violations of hazardous waste regulatory requirements occurring from the time the wastewater treatment sludges are generated. Furthermore, if any releases of the waste occurred that threaten human health or the environment, the releases could potentially be addressed through enforcement orders, such as orders under RCRA sections 3013 and 7003. States could choose to take an enforcement action for violations of state hazardous waste requirements under state authorities.

Based on the information available, the Agency believes that the condition of no land placement allows the motor vehicle manufacturers to dispose of this waste as nonhazardous, while continuing their current waste management practices. Storage in roll-off boxes and similar containers, as well as storage inside buildings, would clearly fulfill the condition of no outside land placement. Therefore, the Agency believes that the condition will not impose any additional burden on the generators.

### C. Recordkeeping Requirements

As noted in the proposal, generators claiming the exemption must be able to demonstrate that the conditions of the exemption are being met and bear the burden of proof to demonstrate compliance (analogous to other exemptions, see 40 CFR 261.2(f)). Therefore, it is important that generators retain sufficient records to document the disposal site for the exempt waste. The proposed rule included regulatory text (§ 261.31(b)(4)(iii)) that specified the records necessary for a generator claiming the exemption. EPA requested comment on whether the proposed

recordkeeping requirements should also be made conditions of the exemption, rather than established as a separate regulatory provision. If the recordkeeping provisions were made conditions of the exemption, then failure to comply may result in enforcement actions for violating RCRA standards for storing hazardous waste.

Most commenters stated that the recordkeeping requirement should be a separate regulatory requirement, and not a condition of the exemption itself. They noted that the full Subtitle C requirements should only apply when the waste is not sent to an appropriate landfill, and not when the generator may have failed to comply with ancillary recordkeeping requirements. One of these commenters assumed that, in addition to the need to document the waste volume generated and disposed off site, the information would also include the identity of the landfill where the sludge was disposed. Another commenter encouraged the Agency to make the recordkeeping requirements a condition of the exemption to reinforce the concept that the exemption is conditioned on proper management.

The Agency believes that a recordkeeping requirement, rather than a condition, will be sufficient motivation to ensure that the waste is properly disposed. The Agency believes that full Subtitle C requirements should not apply if the generator complied with the disposal conditions, i.e., the waste was sent to an appropriate landfill, but the generator simply lacked adequate records. This avoids cases where the lack of recordkeeping leads to the waste being hazardous, regardless of the actual disposal site. Failure to comply with recordkeeping requirements could result in enforcement action by EPA under section 3008 of RCRA (or by an authorized state under similar state authorities), which authorizes the imposition of substantial civil penalties. Also, as noted by one commenter, the generator should be able to demonstrate that their waste was properly disposed of just as they would for any other solid waste.

However, the Agency recognizes the need for adequate records for enforcement authorities to confirm that the exempt waste was properly disposed. The proposed recordkeeping requirements in § 261.31(b)(4)(iii) would require generators to maintain documentation sufficient to prove that the waste meets the disposal condition, including the volume of waste generated and disposed off site. The Agency agrees with the one commenter's assumption that this information would include the identity of the landfill(s) where the

sludge was disposed. The Agency has decided to more specifically describe the type of information needed in order to clarify the requirement. The recordkeeping requirement in the final rule will include: The volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and location of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. The Agency believes that these requirements will ensure that there is sufficient information available to document the quantity of waste generated and identify the landfill that received the waste, without the need to establish the recordkeeping requirements as conditions to the exemption. The Agency expects that generators will typically retain records for shipments of solid waste to off-site landfills that will contain the information included in the recordkeeping requirement.

#### *D. Scope and Applicability of the Exemption*

The proposed rule exempts waste from one industrial sector (automobile manufacturers) that uses a specific aluminum conversion process (zinc phosphating). Several commenters urged EPA to expand the exemption to include other generators in other industries. Commenters argued that other sectors related to automobile manufacturing (categories under NAICS code 336 such as travel trailer manufacturers and parts manufacturers) and other industrial sectors (aerospace industry) use the same conversion coating processes. One commenter also suggested that the amendment to the listing be expanded to include auto manufacturing processes beyond the zinc phosphating process. This commenter suggested that the exemption be expanded to include processes "where neither hexavalent chromium nor cyanide is used in the chemical conversion coating process." The commenter believes that this language would better reflect EPA's intent in the original F019 listing.

The Agency is not expanding the scope of the exemption in the final rule to include other manufacturing categories. As described in the proposal, the Agency has a wealth of data from the automobile manufacturing/assembly facilities derived from the delisting petitions for 13 motor vehicle manufacturing facilities. These data include material safety data sheets and the analytical data compiled from the analyses of the F019 sludge samples from these facilities. The sludge samples

were analyzed for approximately 240 chemicals, which yielded a large data base for the proposed rule (e.g., for a key constituent nickel, 106 samples were analyzed for nickel content and 193 were analyzed for leachable nickel). In comparison, the commenters did not provide any documentation to support their contention that the phosphating process used by the other generators cited is the same as that found at motor vehicle manufacturing facilities. Furthermore, commenters did not provide any analytical data to show that the associated wastestreams are the same or "virtually identical." Therefore, the Agency has no basis to consider expanding the exemption.

Finally, the Agency clearly noted in the preamble to the proposed rule that it was not reopening any other aspect of the F019 listing: "EPA is not reopening any aspect of the F019 listing other than those specifically identified in this proposal, and will not respond to any comments that address issues beyond the specific proposals outlined in this notice." See 72 FR 2223. Therefore, the Agency did not entertain any more general revisions to the F019 listing to exclude waste from processes where neither hexavalent chromium nor cyanide is used. In addition, the Agency has no data to indicate that hexavalent chromium and cyanide are the only constituents of concern in various conversion coating processes. In fact, although the F019 waste from the automotive manufacturers did not contain significant levels of hexavalent chromium or cyanide, the Agency found that the levels of nickel and arsenic are of some concern.

#### *E. Applicability to Recycled Waste*

In the proposed rule, the Agency stated that it was not aware of any recycling or reclamation of F019 sludges, and believed that current market conditions do not support such recycling for the purpose of recovering the metal content of the waste. The Agency requested comment on whether its understanding was accurate, and whether recycling of F019 waste is economically feasible. The comments the Agency received on this question confirmed that F019 wastes from automotive manufacturing are not currently recycled for metal recovery. However, commenters noted that, if the waste was not a listed hazardous waste, potential avenues of recycling, reclamation or other beneficial use of the sludge could develop in the marketplace, such as use as an admixture for concrete. Commenters urged the Agency to modify the

exemption to include wastes that are recycled in some fashion.

The Agency has no documented information to indicate a market exists for recovering the metals in F019 waste from motor vehicle manufacturers. Some commenters appear to believe that the amended listing would allow beneficial uses of the sludge to develop. However, the Agency notes that the exemption requires the sludge to be disposed in a landfill that meets the specified liner conditions, and the requirement that the generator not place the waste on the land prior to disposal. Therefore, using the sludge as an admixture for concrete would not meet this condition, and the use of F019 sludge in this way may subject the materials to regulation as "use constituting disposal" (see 40 CFR 266.20).

The exemption being promulgated by the Agency in this final rule does not eliminate the possibility of legitimate reuse of the sludge, whether or not the sludge carries the F019 listing code. However, the Agency did not attempt to evaluate the legitimacy of potential recycling uses of the F019 sludge, and the final rule does not address such uses. The Agency is evaluating revisions to the definition of solid waste that may relate to the legitimate reclamation of various wastes. See the proposed rules published March 26, 2007 (72 FR 14172) and October 28, 2005 (68 FR 61588). However, these proposed actions are currently limited to reclamation activities and would not apply to recycling of materials that are used to produce products that are applied to or placed on the land.

#### *F. Interrelationship Between the Exemption and Delistings*

In the proposal, the Agency discussed the interrelationship between the proposed exemption and F019 listings (which is complicated by the overlay of state authorizations). The Agency indicated that if the revisions to the F019 listing are adopted by authorized state programs, then the existing delistings would not be needed to exclude the waste from the listing, provided the waste is not placed on the land prior to shipment to a landfill, and the landfill unit meets the specified liner requirements. That is, the subject sludge would never become an F019 waste if the exemption conditions are met, so a delisting is not needed. The Agency suggested that a facility with a delisting "may wish to seek to have its delisting withdrawn" to avoid confusion over implementation of the exemption. One commenter requested that the Agency confirm that facilities

with delistings are not required to withdraw them, and that these delistings would remain in effect until they are withdrawn under the applicable administrative procedures. The commenter was concerned that there may be circumstances under which facilities may wish to continue to manage their wastes pursuant to their delistings.

As the Agency stated in the proposal, a facility has the option of continuing to manage its waste as nonhazardous if it complies with the applicable delisting conditions, rather than the conditions set out in the exemption. The Agency agrees with the commenter that a facility with a delisting (which is codified in Appendix IX to part 261) is not required to withdraw it. This delisting would remain in effect unless it is withdrawn through the applicable administrative procedures (e.g., § 260.20 would apply for a Federal delisting). However, the generators in this situation are encouraged to explore the need for existing delistings with state authorities, given the broad coverage of the exemption, and the applicability of state regulations. See the discussion below in Section VI. State Authorization for additional information on the authorization process.

#### G. Waste Analysis

One commenter noted that EPA did not conduct leaching tests of the F019 wastes at multiple pH values, as suggested in the guidance manual for delisting petitions. The commenter stated that EPA did not explain why multiple pH testing was not conducted for the proposed F019 listing modification, when such multiple pH testing was required for the approval of delisting petitions for wastes that have been stabilized with chemical reagents. The commenter pointed out that the exempted F019 waste may be disposed of in a variety of different landfills with varying pH environments.

In response, the Agency notes that the exemption for these F019 wastes is not being promulgated as a delisting; rather it is an amendment to the listing, thus the delisting guidance is not directly germane. Furthermore, the document cited by the commenter is only guidance suggested for delisting petitions. In fact, testing at multiple pHs was not deemed necessary for the numerous delistings issued for specific F019 wastes generated by vehicle manufacturers. In any case, the amendment to the F019 listing is based on a wealth of data generated for 13 delistings (see the proposed rule at 72 FR 2226 for the 13 facilities). These data included extensive leaching data obtained using

the Toxicity Characteristic Leaching Procedure (TCLP), which the Agency evaluated using the maximum detected levels in our risk analysis. For example, the data set included 163 TCLP results for nickel, from which the maximum value was used.

The Agency has used the Toxicity Characteristic Leaching Procedure (TCLP) extensively to evaluate the leaching mobility for waste constituents. The TCLP is the method specified for evaluating wastes for the hazardous waste Toxicity Characteristic (§ 261.24). In addition, the Agency has used the TCLP extensively in evaluating wastes for listing as a hazardous waste.<sup>8</sup> The TCLP test procedure is documented in EPA's compendium of analytical and sampling methods that have been evaluated and approved for use in complying with the RCRA regulations.<sup>9</sup> The Agency has used other extraction methods in some listing determinations. For example, the Agency has used another extraction method, the *Synthetic Precipitation Leaching Procedure* (SPLP, SW-846 method 1312) in cases where disposal in MSWLFs was unlikely and disposal in on-site industrial landfills was the most probable scenario (see the Inorganic Chemical Manufacturing listing, September 14, 2000; 65 FR 55684). However, in the case of the F019 amendment, there is no indication that the segment of the vehicle manufacturing industry at issue will dispose of the exempt waste in on-site landfills. To the contrary, industry commenters stated that it was extremely unlikely that they would construct landfills on site for disposal of this waste.<sup>10</sup> In addition, the SPLP is a relatively dilute acid solution and is generally considered less aggressive than the TCLP for metal extraction (e.g., see the data for lead debris, 63 FR 70189, December 18, 1998), although

<sup>8</sup> For example, see the determinations for Petroleum Refining wastes at 63 FR 42110, August 6, 1998, and Chlorinated Aliphatics Production wastes at 65 FR 67068, November 8, 2000.

<sup>9</sup> See EPA publication SW-846, entitled *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*.

<sup>10</sup> Disposal in an off-site industrial landfill, while possible, appears less likely than disposal in a municipal solid waste landfill if only because of the relatively low number of off-site industrial landfills compared to the large number of municipal landfills. As of 2005, EPA estimates that about 1,654 municipal landfills were operating (<http://www.epa.gov/epaoswer/non-hw/municipl/facts.htm>) vs. perhaps 10 to 20 off-site commercial industrial landfills (see *Cost and Economic Impact Analysis of the CESQG Rulemaking, USEPA, June 1996* available at <http://www.epa.gov/epaoswer/hazwaste/sqg/cost/ria.pdf>). Furthermore, the Agency expects that off-site modern commercial industrial landfills are likely to have liner systems with composite liners in any case.

this depends on the form of the chemicals in the waste and the waste matrix.

Use of leaching tests other than the TCLP have been considered by the Agency for special wastes, such as stabilized waste that may have relatively high pH and wastes containing high levels of specific chemicals (e.g., mercuric sulfide, see the listing for Chlorinated Aliphatics Production wastes cited above). In the case of the F019 waste at issue, numerous samples of the waste were evaluated by testing their pH; the data show that the median pH of the samples tested was 7.78, or close to neutrality (see summary data in the docket). Due to the lack of any special characteristics of the F019 waste, the Agency does not believe the waste requires any special leaching testing. Therefore, while the TCLP test may be more representative of a MSWLF environment, EPA believes that the testing for the F019 exemption is sufficient, considering the nature of the waste (wastewater treatment sludge), the large number and variety of waste samples that were analyzed in support of the delisting petitions, and the plausible disposal in a MSWLF.

However, the Agency recognizes the possible limitations of the TCLP test data. Extending the exemption to industrial landfills (i.e., landfills that do not accept municipal waste) adds some additional uncertainty to the analysis, due to the potential for somewhat different leaching environments. Moreover, the regulatory programs in place for nonhazardous industrial waste vary from state to state.<sup>11</sup> Therefore, the authorized states that adopt this exemption have the option to consider the need for any further limitations on the specific landfill conditions they may deem appropriate, depending on their existing regulatory program for industrial solid waste.

#### H. Other Issues

One commenter suggested that the Agency revise the regulatory language to clarify that waste meeting the exemption conditions is still subject to regulation as a hazardous waste if the waste exhibits any of the hazardous waste characteristics specified in Subpart C of 40 CFR part 261 (§§ 261.20 through 261.24). Commenters also encouraged the Agency to clarify that the exempt waste is not subject to

<sup>11</sup> See the report by Association of State and Territorial Solid Waste Management Officials (ASTSWMO), "Non-Municipal, Subtitle D Waste Survey," March 1996, and the EPA report, "State Requirements for Industrial Non-Hazardous Waste Management Facilities," October 1995.

regulation as a hazardous waste at the point of generation.

The Agency agrees with both of the commenters' suggestions and the Agency is modifying the listing description in the final rule to reflect these changes. The preamble to the proposed rule made it clear that the exempt waste would still be subject to the hazardous waste characteristics (see 72 FR 2229). In addition, the Agency's intent was to have the exemption apply from the point of generation, as evidenced by the preamble to the proposed rule that states: "Wastes that meet this condition would be exempted from the listing from their point of generation, and would not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal (including the land disposal restrictions)" (see 72 FR 2221). Therefore, the final rule will specify that the wastes "will not be subject to this listing at the point of generation," if the wastes are managed according to the conditions of the exemption.

#### VI. State Authorization

Under section 3006 of RCRA, EPA may authorize a qualified state to administer and enforce a hazardous waste program within the state in lieu of the federal program, and to issue and enforce permits in the state. Following authorization, the state requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally-enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized states also have independent authority to bring enforcement actions under state law.

A state may receive authorization by following the approval process described in 40 CFR part 271. Part 271 of 40 CFR also describes the overall standards and requirements for authorization. After a state receives initial authorization, new Federal regulatory requirements promulgated under the authority in the RCRA statute do not apply in that state until the state adopts and receives authorization for equivalent state requirements. The state must adopt such requirements to maintain authorization. In contrast, under RCRA section 3006(g), (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to the 1984 Hazardous and Solid Waste Amendments (HSWA) take effect in authorized states at the same time that they take effect in unauthorized states. Although authorized states still are

required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized states, including the issuance of new permits implementing those requirements, until EPA authorizes the state to do so. Authorized states are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements.

RCRA section 3009 allows the states to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized states are not required to adopt Federal regulations, either HSWA or non-HSWA, that are considered less stringent.

This rule is promulgated pursuant to non-HSWA authority. The changes in this rule are less stringent than the current Federal requirements. Therefore, states will not be required to adopt and seek authorization for these changes. EPA will implement the changes to the exemptions only in those states which are not authorized for the RCRA program. Nevertheless, EPA believes that this rule has considerable merit, and the Agency thus strongly encourages states to amend their programs and become Federally-authorized to implement these rules.

#### VII. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Designation and List of Hazardous Substances and Reportable Quantities

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) defines the term "hazardous substance" to include RCRA listed and characteristic hazardous wastes. When EPA adds a hazardous waste under RCRA, the Agency also will add the waste to its list of CERCLA hazardous substances. EPA also establishes a reportable quantity, or RQ, for each CERCLA hazardous substance. EPA provides a list of the CERCLA hazardous substances along with their RQs in Table 302.4 at 40 CFR 302.4. If a person in charge of a vessel or facility that releases a CERCLA hazardous substance in an amount that equals or exceeds its RQ, then that person must report that release to the National Response Center (NRC) pursuant to CERCLA section 103. That person also may have to notify state and local authorities.<sup>12</sup>

<sup>12</sup> See section 304(a) of the Emergency Planning and Community Right to Know Act (EPCRA) and 40 CFR 355.40.

Since this rule is amending the scope of the EPA Hazardous Waste No. F019 under 40 CFR 261.31 listing to exclude wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, and if the wastes are disposed in a landfill meeting certain liner design criteria, the Table 302.4 at 40 CFR 302.4 is also amended to adopt the same definition and scope.

#### VIII. Relationship to Other Rules—Clean Water Act

This action's final regulatory changes will not: (1) Increase the amount of discharged wastewater pollutants at the industry or facility levels; or (2) interfere with the ability of industrial generators and recyclers of electroplating residuals to comply with the Clean Water Act requirements (e.g., Metal Finishing Effluent Guidelines, 40 CFR Part 433).

#### IX. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether this regulatory action is "significant" and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of this regulatory action. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, although the annual effect of this rule is expected to be less than \$100 million, the Agency has determined that this rule is a significant regulatory action because this rule contains novel policy issues. As such, this action was submitted to OMB for

review. Changes made in response to OMB suggestions or recommendations are documented in the docket to this rule.

The following is a summary of EPA's "Regulatory Impact Analysis" (RIA), which is also available from the docket for this action. The scope of this F019 rule is limited to the (1) automobile manufacturing industry (NAICS 336111) and (2) the light truck/utility vehicle manufacturing industry (NAICS 336112). The Agency defined this scope in relation to 19 recent (since 1997) delisting final determinations for these two motor vehicle manufacturing industries in EPA Regions 4, 5, 6 and 7.<sup>13</sup> Under the current F019 listing description, motor vehicle manufacturers become F019 sludge generators if they use aluminum parts on vehicle bodies which undergo the chemical conversion (zinc phosphating) process. Motor vehicle manufacturers began in the early 1970's, to substitute lighter weight aluminum parts for heavier steel parts to achieve national vehicle fleet fuel efficiency and vehicle pollutant emission reduction objectives. As promulgated, the elimination of RCRA Subtitle C hazardous waste regulatory requirements for waste transport, waste treatment/disposal, and waste reporting/recordkeeping in this rule, is expected to provide \$0.5 to \$1.3 million per year in regulatory cost savings to 7 facilities in these two industries which generate about 2,500 tons per year of F019 sludge, but are not yet delisted. Although this final action considered alternative RCRA Subtitle D non-hazardous waste landfill liner specifications (i.e., liner design criteria) as possible conditions for exemption of F019 sludge from RCRA Subtitle C regulation, the RIA does not distinguish landfill liner types in this cost savings

estimate. Secondary impacts of the proposed rule may also include potential future RCRA regulatory cost avoidance for up to 42 other facilities in these two industries that are not currently generating F019 sludge, but which may begin applying aluminum parts in vehicle assembly. Furthermore, by reducing regulatory costs, EPA anticipates that this rule may also induce other motor vehicle manufacturing facilities in the United States to begin using aluminum in manufacturing of vehicles sooner than they might otherwise do, thereby possibly accelerating future achievement of fuel efficiency objectives. The RIA presents a simplistic scenario of this possibility for the purposes of illustrating potential future vehicle fuel savings and the associated benefits.

#### B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them. An Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 1189.21 and a copy may be obtained by going to <http://www.regulations.gov> and entering docket ID EPA-HQ-RCRA-2006-0984.

EPA under 40 CFR 261.31(b)(4)(iii), adds a recordkeeping requirement for generators. The rule will require generators wanting to demonstrate compliance with the provisions of this rule to maintain on site for a minimum of three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design criteria set out in the listing description. An enforcement action by the Agency can extend the record retention period (§ 268.7(a)(8)) beyond the three years.

EPA estimates that the total annual respondent burden for the new paperwork requirements in the rule is approximately 35 hours per year and the annual respondent cost for the new paperwork requirements in the rule is approximately \$2,600. However, in addition to the new paperwork requirements in the rule, the Agency also estimated the burden and cost that generators could expect as a result of complying with the existing RCRA hazardous waste information collection requirements for the exempted materials (e.g., preparation of hazardous waste manifests, biennial reporting). Taking

both the new rule and existing RCRA requirements into account, EPA expects the rule will result in a net reduction in national annual paperwork burden to the 7 initially affected NAICS 336111 and 336112 facilities of approximately 440 hours and \$32,400. As summarized in the Economics Background Document and in the prior sub-section of this notice, EPA expects this net cost savings to be further supplemented by annual cost savings to these same facilities from reduced waste management costs, by the expected shift of sludge management from RCRA Subtitle C hazardous waste management, to RCRA Subtitle D nonhazardous waste management. The net cost to EPA of administering the rule is expected to be negligible, since facilities are not required under this rule to submit any information to the Agency for review and approval. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust existing systems to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies

<sup>13</sup> The **Federal Register** (FR) citations for the 19 F019 delisting determinations are: GM in Lake Orion, Michigan (62 FR 55344, October 24, 1997); GM in Lansing, Michigan (65 FR 31096, May 16, 2000); BMW in Greer, South Carolina (66 FR 21877, May 2, 2001); Nissan in Smyrna, Tennessee (67 FR 42187, June 21, 2002); GM in Pontiac, Michigan, GM in Hamtramck, Michigan, GM in Flint, Michigan, GM Grand River in Lansing, Michigan, Ford in Wixom, Michigan, Ford in Wayne, Michigan (68 FR 44652, July 30, 2003); DaimlerChrysler Jefferson North in Detroit, Michigan (69 FR 8828, February 26, 2004); GM in Lordstown, Ohio (69 FR 60557, October 12, 2004); Ford in Dearborn, Michigan (70 FR 21153, April 25, 2005); GM in Janesville, Wisconsin (70 FR 71002, November 25, 2005); and GM Saturn in Spring Hill, Tennessee (70 FR 76168, December 23, 2005); GM Ft. Wayne Assembly in Ft. Wayne, Indiana (29 Indiana Register 3350, July 1, 2006); GM Arlington Truck Assembly Plant in Arlington, Texas (72 FR 43, January 3, 2007); AutoAlliance International Inc (Ford/Mazda joint venture) in Flat Rock, Michigan (72 FR 17027, April 6, 2007); and Ford Motor Company Kansas City Assembly Plant in Claycomo, Missouri (72 FR 31185, June 6, 2007).

that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities potentially subject to this action, "small entity" is defined as: (1) The for-profit small business size standards set by the Small Business Administration (SBA), in reference to the two six-digit NAICS code industries affected by this action: (1) NAICS 336111 automobile manufacturing SBA standard of less than 1,000 employees, and (2) NAICS 336112 light truck and utility vehicle manufacturing SBA standard of less than 1,000 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on small entities subject to the rule.

According to the most recent U.S. Census Bureau "Economics Census" data for these two NAICS codes—for data year 2002 published in December 2004 and May 2005, respectively—there were 176 NAICS 336111 establishments operated in 2002 by 161 companies, of which 154 establishments (88%) had less than 1,000 employees (<http://www.census.gov/prod/ec02/ec0231i336111t.pdf>), and there were 97 NAICS 336112 establishments operated in 2002 by 69 companies, of which 62 establishments (64%) had less than 1,000 employees (<http://www.census.gov/prod/ec02/ec0231i336112t.pdf>). These census statistics reveal that both industries

consist of large fractions of small establishments according to the SBA definitions, but the census data do not reveal the fraction of companies which are small (which is the more relevant measure). However, it may be inferred that there are large fractions of small companies in both industries, because of the high degree of parity between establishment counts and companies counts of 0.96 for NAICS 336111 (i.e., 154:to:161), and of 0.71 for NAICS 336112 (i.e., 69:to:97). This action does not directly affect small governmental jurisdictions (i.e., a government of a city, county, town, school district or special district with a population of less than 50,000), or small organizations (i.e., any not-for-profit enterprise which is independently owned and operated and is not dominant in its field).

Because this action is designed to lower the cost of waste management for these industries, this rule will not result in an adverse economic impact effect on affected entities. For more information regarding the economic impact of this rule, please refer to the "Regulatory Impact Analysis" available from the EPA Docket. EPA therefore concludes that this rule will relieve regulatory burden for all size entities, including small entities.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small

governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials to have meaningful and timely input in the development of regulatory rules, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in expenditures of \$100 million or more for state, local, or tribal governments, in the aggregate, or the private sector in any one year. This is because this rule imposes no enforceable duty on any state, local, or tribal governments. EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding \$100 million. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule directly affects primarily generators of hazardous waste sludges in the NAICS 3361 motor vehicle manufacturing industry group. There are no state and local government bodies that incur direct compliance costs by this rulemaking. State and local government implementation expenditures are expected to be less than \$500,000 in any one year. Thus, the requirements of Section 6 of the Executive Order do not apply to this final rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicited comment on the proposed rule from state and local officials.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose substantial direct compliance costs on them. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

The Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use*

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the

supply, distribution, or use of energy. This final rule reduces regulatory burden as explained in our "Economics Background Document," and may possibly induce fuel efficiency and energy savings in the national motor vehicle fleet. It thus should not adversely affect energy supply, distribution or use.

*I. National Technology Transfer and Advancement Act*

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898, "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population" (February 11, 1994), is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. Our goal is to ensure that all citizens live in clean and sustainable communities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to

analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3-17).

The Agency's risk assessment did not identify risks from the management of the zinc phosphating sludge generated by the motor vehicle manufacturing industry, provided that the waste is disposed in a landfill that is subject to or meets the landfill design criteria set out in this rule. Therefore, EPA believes that any populations in proximity to the landfills used by these facilities should not be adversely affected by common waste management practices for the wastewater treatment sludge.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective July 7, 2008.

**List of Subjects**

*40 CFR Part 261*

Environmental protection, Hazardous materials, Recycling, Waste treatment and disposal.

*40 CFR Part 302*

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: May 29, 2008.

**Stephen L. Johnson,**  
*Administrator.*

■ For the reasons set out in the preamble, title 40, chapter I of the Code

of Federal Regulations is amended as follows:

**PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

■ 1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

■ 2. Section 261.31 is amended as follows:

- a. In the table in paragraph (a) by revising the entry for F019.
- b. By adding paragraph (b)(4).

**§ 261.31 Hazardous wastes from non-specific sources.**

(a) \* \* \*

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
* * * * *		
F019 .....	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301 or § 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in paragraph (b)(4)(i) of this section and (b)(4)(ii) of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.	(T)

(b) \* \* \*  
 (4) For the purposes of the F019 listing, the following apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.  
 (i) Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.  
 (ii) Generators must maintain in their on-site records documentation and

information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records must include: the volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these documents on site for no less than three years. The retention period for the documentation is automatically extended during the course of any enforcement action or as

requested by the Regional Administrator or the state regulatory authority.

**PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION**

■ 3. The authority citation for part 302 continues to read as follows:

**Authority:** 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

■ 4. In § 302.4, Table 302.4 is amended by revising the entry for F019 in the table to read as follows:

**§ 302.4 Designation of hazardous substances.**

**TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES**

[Note: All comments/notes are located at the end of this table]

Hazardous substance	CASRN	Statutory code <sup>†</sup>	RCRA waste No.	Final RQ pounds (Kg)
* * * * *				
F019 .....	.....	4	F019	10 (4.54)
Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301 or § 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in § 261.31(b)(4)(i) and § 261.31(b)(4)(ii) describes the recordkeeping requirements for motor vehicle manufacturing facilities.				
* * * * *				

<sup>†</sup> Indicates the statutory source defined by 1, 2, 3, and 4, as described in the note preceding Table 302.4.

\* \* \* \* \*

[FR Doc. E8-12483 Filed 6-3-08; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 070717341-8549-02]

RIN 0648-AV41

**Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea bass Fisheries; Fishing Year 2008**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; correction.

**SUMMARY:** On May 23, 2008, NMFS published a final rule implementing the recreational management measures for the 2008 summer flounder, scup, and black sea bass fisheries. The final rule contains several errors throughout the preamble. This document corrects those errors.

**DATES:** Effective June 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Michael Ruccio, Fishery Policy Analyst, (978) 281-9104.

**SUPPLEMENTARY INFORMATION:** The final rule for the 2008 recreational management measures for summer flounder, scup, and black sea bass was published in the **Federal Register** on May 23, 2008 (73 FR 29990). There were several errors throughout the preamble text.

**Corrections**

In final rule FR Doc. E8-11601, on page 29991 of the May 23, 2008, issue of the **Federal Register**, make the following corrections:

1. On page 29991, in column 3, under the Black Sea Bass Management Measures caption, the first sentence is corrected to read as follows:

“Table 3 contains the coastwide Federal measures for black sea bass in effect for 2007 and codified.”

2. On page 29992, in column 1, under the Comments and Responses caption, the second sentence is corrected to read as follows:

“One individual submitted comments regarding several species such as mackerel, red hake, and marlin which are outside the scope of this rulemaking.”

3. On page 29992, in column 1, under the Comment 1 caption, the first sentence is corrected to read as follows:

“Some of the comments received allege that state-by-state conservation equivalency violates National Standard 2 of the Magnuson-Stevens Act, which requires conservation and management actions to be based upon the best available scientific information.”

4. On page 29992, in column 2, in the 27th line, the sentence is corrected to read as follows:

“In addition, NMFS encouraged states to take a more conservative approach to both improve conservation equivalency’s performance and to offset uncertainty in the assessment of potential measures effectiveness.”

5. On page 29992, in column 3, the first full paragraph should read:

“The use of MRFSS data was challenged, along with other aspects of the agency’s actions, in 2006 in the case *United Boatmen, et al., v. Gutierrez*<sup>3</sup>, the Secretary of Commerce (Secretary). The plaintiffs alleged that MRFSS was a gravely flawed tool and unsuitable for use in setting the summer flounder TAL. NMFS responded that MRFSS, while admittedly having limitations, has been upheld under National Standard 2 as the best available scientific information. The defendants’ brief cited three separate cases wherein MRFSS had been upheld as the best available scientific information relative to National Standard 2. In this case, the judge found in favor of the Secretary on all points, adding further support to the adequacy of MRFSS data for use in fisheries management as the best available science.”

6. On page 29993, in column 3, the last full paragraph is corrected to read as follows:

“For these reasons, NMFS believes that implementing conservation equivalency, as recommended by the Council and Commission for 2008, does not violate National Standard 4 or National Standard 2 of the Magnuson-Stevens Act.”

7. On page 29994, in column 1, in the first full paragraph, the fourth sentence is corrected to read as follows:

“National Standard 6 directs FMPs to have a suitable buffer, in favor of conservation, to deal with uncertainty, which may also be stated as a conservative approach.”

8. On page 29995, in column 2, in the 13th line the sentence is corrected to read as follows:

“As such, it is a more conservative approach than applied in previous years, and presents a higher likelihood that the 2008 recreational harvest limit will not be exceeded on either a state-

by-state basis or coastwide, and that the subsequent mortality objectives will be met for the 2008 fishing year.”

9. On page 29996, in column 1, in the first full paragraph, the first sentence is corrected to read as follows:

“NMFS acknowledges that state-by-state conservation equivalency has not performed ideally, since the summer flounder recreational harvest limit has been exceeded in 5 of the 7 years where it has been utilized.”

10. On page 29997, in column 1, the first full paragraph is corrected to read as follows:

“A summary of the comments received and NMFS’ responses thereto is contained in the preamble of this rule. None of those comments addressed specific information contained in the IRFA economic analysis. One comment received stated that NMFS had not conducted an economic analysis for the 2008 recreational management measures and some commenters generally indicated that the management measures implemented by this rule may have an economic impact. See response to Comment 7 in the Comment and Responses section for more information. No changes have been made from the proposed rule as a result of the comments received by NMFS.”

11. On page 29998, in column 2, in the 13th line from the bottom, the sentence is corrected to read as follows:

“Conservation equivalency is generally expected to mitigate the economic impact in states with lower required percent reductions for 2008 compared to the coastwide reduction of 33.2 percent.”

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 29, 2008.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 08-1317 Filed 5-30-08; 2:51 pm]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 080428607-8689-02]

RIN 0648-AW69

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Allocation of Trips to Closed Area II Yellowtail Flounder Special Access Program**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; allocation of trips.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has allocated zero trips to the Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP) during the 2008 fishing year (FY) (i.e., May 1, 2008, through April 30, 2009). The Regional Administrator has determined that the available catch of Georges Bank (GB) yellowtail flounder is insufficient to support a minimum level of fishing activity within the CA II Yellowtail Flounder SAP for FY 2008. The intent of this action is to help achieve optimum yield (OY) in the fishery by maximizing the utility of available GB yellowtail flounder TAC throughout FY 2008.

**DATES:** Effective June 30, 2008.

**ADDRESSES:** Copies of the final rule implementing the FY 2008 TAC for GB yellowtail flounder in the U.S./Canada Management Area are available upon request from the NE Regional Office at the following mailing address: George H. Darcy, Assistant Regional Administrator for Sustainable Fisheries, NMFS, Northeast Regional Office, 1

Blackburn Drive, Gloucester, MA 01930. Copies may also be requested by calling (978) 281-9315.

**FOR FURTHER INFORMATION CONTACT:**

Douglas Potts, Fishery Management Specialist, (978) 281-9341, FAX (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

Framework Adjustment (FW) 40B (70 FR 31323; June 1, 2005) requires that the Regional Administrator annually allocate the total number of trips into the CA II Yellowtail Flounder SAP. A formula was developed in FW 40B to assist the Regional Administrator in determining the appropriate number of trips for this SAP on a yearly basis. The FY 2008 calculations for this equation were detailed in the proposed rule for this action (73 FR 24936; May 6, 2008) and are not repeated here.

FW 40B authorized the Regional Administrator to allocate zero trips to this SAP if the available GB yellowtail flounder catch is not sufficient to support 150 trips with a 15,000-lb (6,804-kg) trip limit (i.e., if the available GB yellowtail catch is less than 1,021 mt). Using the formula developed in FW 40B, and based on the 1,950-mt U.S./Canada GB yellowtail flounder TAC for 2008 (73 FR 16571; March 28, 2008), the Regional Administrator has determined that there will be insufficient GB yellowtail flounder TAC to support the CA II Yellowtail Flounder SAP for FY 2008. Therefore, zero trips are allocated to the SAP for FY 2008.

**Comments and Responses**

One comment was received on this action.

*Comment 1:* One commenter did not specifically address the proposed allocation of trips, but asserted that the CA II Yellowtail Flounder SAP should be closed for the next 10 years and very severe penalties adopted for violators.

*Response:* The current regulatory restrictions in place, including the CA II Yellowtail Flounder SAP, are designed to protect and rebuild fish stocks in

accordance with applicable laws. Depending on the amount of GB yellowtail flounder TAC available, the regulations allow the Regional Administrator, in consultation with the Council, to consider keeping the SAP closed on an annual basis or to allow an allocation of trips. NMFS does not believe that a closure on a more prolonged basis is necessary at this time.

**Classification**

The Regional Administrator has determined that this action is necessary for the conservation and management of the NE multispecies fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule does not contain any new, nor does it revise existing reporting, recordkeeping, or other compliance requirements.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 30, 2008.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 08-1316 Filed 5-30-08; 2:50 pm]

**BILLING CODE 3510-22-S**

# Proposed Rules

Federal Register

Vol. 73, No. 108

Wednesday, June 4, 2008

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 130

[Docket No. APHIS–2006–0144]

RIN 0579–AC59

#### Import/Export User Fees

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations concerning user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. We are proposing increases in those fees for fiscal years 2009 through 2013 in order to ensure that the fees accurately reflect the anticipated costs of providing these services each year. By publishing the annual user fee changes in advance, users can incorporate the fees into their budget planning. The user fees pay for the actual cost of providing these services.

**DATES:** We will consider all comments that we receive on or before August 4, 2008.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0144> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2006–0144, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0144.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading

room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations, contact Ms. Inez Hockaday, Director, Management Support Staff, VS, APHIS, 4700 River Road, Unit 44, Riverdale, MD 20737–1231; (301) 734–7517.

For information concerning user fee rate development, contact Mrs. Kris Caraher, User Fees Section Head, Financial Management Division, MRPBS, APHIS, 4700 River Road, Unit 54, Riverdale, MD 20737–1232; (301) 734–5901.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations 9 CFR part 130 (referred to below as the regulations) list user fees for import- and export-related services provided by the Animal and Plant Health Inspection Service (APHIS) for animals, animal products, birds, germ plasm, organisms, and vectors. We propose to amend the user fees for these import- and export-related services to reflect the increased cost of providing these services.

These user fees are authorized by section 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

Since fiscal year (FY) 1992, APHIS has received no directly appropriated funds to provide import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors. Our ability to provide these services depends on user fees. We change our user fees through the standard rulemaking process of publishing the proposed changes for public comment in the **Federal Register**,

considering the comments, publishing the final changes in the **Federal Register**, and making the new user fees effective 30 days after the final rule is published.

For our user fees to cover our costs so that we can continue to provide services and to inform our customers of user fees in time for advance planning, we propose to set user fees for our services in advance for fiscal years 2009 to 2013. The proposed user fees are based on our costs of providing import- and export-related services in fiscal year 2007, plus anticipated annual increases in the salaries of the employees who provide the services, plus adjustments for nonsalary inflation, such as travel expenses, fuel costs, and rent.

If, by the end of FY 2013, we did not have user fees covering FY 2014 in place, we would continue to charge the user fees for FY 2013 until the new user fees are in effect. Therefore, the user fee tables in this document do not specify an end date for user fees that would become effective on October 1, 2012 (the beginning of FY 2013). We also plan to publish a notice in the **Federal Register** prior to the beginning of each fiscal year to remind or notify the public of the user fees for that particular fiscal year.

##### User Fee Components

We calculate our user fees to cover the full cost of providing the services for which we charge the fee. The cost of providing a service includes direct labor, local support costs, Agency overhead, and departmental charges.

Direct labor costs are the costs of employee time spent specifically to provide the service. For example, at APHIS's Animal Import Centers, animal caretakers and veterinarians prepare for the arrival of animals or birds to be quarantined in the Center, care for them (feed, water, clean cages or stalls) while they are quarantined, observe them while they are quarantined, release them from quarantine, and clean the quarantine area afterwards. If the service is inspecting an animal, the direct labor costs include the time spent by the inspector to conduct the inspection. Direct labor costs vary with the type of service provided.

Local support costs include local clerical and administrative activities; indirect labor hours; travel and transportation for personnel; material, supplies, equipment, and other necessary items; training; general office

supplies; rent; equipment capitalization; billing and collection expenses; utilities; and contractual services. Indirect labor hours include supervision of personnel and time spent doing work that is not directly connected with the service but which is nonetheless necessary, such as repairing equipment. Materials and supplies include items like animal food and bedding, chemicals, and, in certain cases, medicine. Rent is the cost of using the space we need to perform import- or export-related work. If space is used for import- or export-related work and other Agency work, only that portion of the costs associated with the import- or export-related work is included in the user fees. Equipment capitalization is the cost per year to replace equipment. We determine this by establishing the life expectancy, in years, of equipment we use to provide a service and by establishing the cost to replace the equipment at the end of its useful life. We subtract any money we anticipate receiving for selling used equipment. Then we divide the resulting amount by the life expectancy of the equipment. The result is the annual cost to replace equipment. Billing costs are the costs of managing user fee accounts for our customers who wish to receive monthly invoices for the services they receive from APHIS. Collections expenses include the costs of managing customer payments and accurately reflecting those payments in our accounting system. Utilities include water, telephone, electricity, gas, heating, and oil. Contractual services include security service, maintenance, trash pickup, etc. The type, amount, and cost of administrative support vary with the type of service provided.

Agency overhead is the pro-rata share, attributable to a particular service, of the Agency's management and support costs. Management and support costs include the costs of providing budget and accounting services, regulatory services, investigative and enforcement services, debt-management services, personnel services, public information services, legal services, liaison with Congress, and other general program and agency management services provided above the local level.

Departmental charges are APHIS' share, expressed as a percentage of the total cost, of services provided centrally by the Department of Agriculture (Department). Services the Department provides centrally include the Federal Telephone Service, mail, National Finance Center processing of payroll and other money management services. Additionally, the Department provides unemployment compensation, Office of Workers Compensation Programs, and

central supply for storing and issuing commonly used supplies and Department forms. The Department notifies APHIS how much the Agency owes for these services. We have included a pro-rata share of these departmental charges, as attributable to a particular service, in our fee calculations.

We have added an amount that would provide for a reasonable balance, or reserve, in the Veterinary Services user fee account. We have determined that a reasonable reserve would be approximately 25 percent of the annual cost of the Import/Export Program. All user fees will contribute to the reserve proportionately. The reserve would ensure that we have sufficient operating funds in cases of bad debt, customer insolvency, and fluctuations in activity volumes. We intend to monitor the balance closely and propose adjustments in our fees as necessary to ensure a reasonable balance.

An outline of the basic process is shown below. The actual components, quantities, and costs used to calculate the fee are different for each service. The basic steps in the calculation for each particular service are:

1. Determine the following costs:
  - Direct labor costs,
  - Pro-rata share of local support costs,
  - Pro-rata share of agency overhead,
  - Pro-rata share of departmental charges, and
  - Pro-rata share of reserve.
2. Add all costs.
3. Round up to the next \$0.25 for all fees less than \$10 or round up or down to the nearest \$1 for all fees greater than \$10.

The result of these calculations is the total cost to provide a particular service one time.

As is the case with all APHIS user fees, we intend to review, at least annually, the user fees proposed in this document. We will publish any necessary adjustments in the **Federal Register**.

#### *User Fees for Animals in APHIS Animal Import Centers (§ 130.2)*

Section 130.2 lists user fees charged for services we provide for animals quarantined in APHIS Animal Import Centers.

We charge a daily user fee for each animal quarantined in an Animal Import Center. Different user fees reflect the varying costs of quarantining different animals. The user fee for each category of animal includes water, standard feed, housing, care, and handling. A separate user fee applies for birds and poultry that require

nonstandard feed, housing, care, or handling.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for FY 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

Section 130.2 also includes a user fee for the use of the transport ramp used to move animals on or off aircraft at APHIS' Animal Import/Export and Plant Inspection Station at Miami International Airport. Due to a variety of factors, including the phasing out of aircraft used for walk-on loads of livestock and changes in the way animals are shipped by air, the transport ramp has not been used since October 2004 and will be sold. Therefore, we are proposing to remove the fee for use of the transport ramp from the regulations.

#### *User Fees for Exclusive Use of Space for Animals Quarantined in APHIS Animal Import Centers (§ 130.3)*

Section 130.3 lists user fees charged when an importer uses an entire quarantine building at an Animal Import Center. If the space is available and the importer has enough animals to fill one of the full building spaces, then a single user fee applies. Depending upon the number and type of animals in the importation, the single user fee for the entire building may be less than the total user fee that would have been charged per animal under § 130.2.

Section 130.3 of the regulations list the location of the spaces, the square footage of the spaces, and the user fee for exclusive use of those spaces. The fees in § 130.3 cover all costs of the quarantine except feed. The importer either provides the feed or pays for it on an actual cost basis, including the cost of delivery.

The importer determines the species, sizes, and ages of the animals or birds in the importation, calls for a reservation, and requests the use of an entire building. At that time we determine, and inform the importer of, the maximum number of animals and birds we would permit. We limit the number of animals or birds to the maximum number which can be cared for without jeopardizing their health. In determining the maximum number, the veterinarian in charge of the Animal Import Center considers the species, size, and age of the animals, animal

husbandry needs, sanitation, ability to conduct tests, inspections, and support procedures.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *User Fees for Processing Import Permit Applications (§ 130.4)*

Section 130.4 lists user fees charged to provide import compliance assistance and to process applications for permits to import certain animals and animal products.

Since the last time we set fees for these services, the amount of time needed to provide import compliance assistance has increased. Therefore, we are proposing to revise the fee categories from “Simple (2 hours or less)” and “Complicated (more than 2 hours)” to “Simple (4 hours or less)” and “Complicated (more than 4 hours)” to reflect more accurately the time needed to provide these services. We are also proposing to revise the unit description for these fees from “per release” to “per shipment” to reflect more accurately the way in which these requests are processed.

These services are charged separately from permit fees, and are charged under a flat fee to prevent confusion or the appearance of double-billing. However, APHIS is considering whether these services would more appropriately be charged by the hourly rate. We welcome any comments on the subject of charging an hourly rate or flat rate fees for this additional import compliance assistance service.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *User Fees for Inspection of Live Animals at Ports of Entry (§§ 130.6 and 130.7)*

Sections 130.6 and 130.7 list user fees we charge for inspecting animals

imported into the United States. We inspect animals to minimize the risk that they could introduce a foreign animal disease into the United States. We provide inspection services at U.S. border ports, airports, and ocean ports.

For animals arriving at our borders with Canada and Mexico, we charge the user fee per animal or per load, depending on whether the animals are handled individually or as a group. The user fees vary with the location of the port of arrival and the type of animal. Different types of animals require different amounts and types of services. User fees for services at the United States-Mexico border are listed in § 130.6. User fees for services at the United States-Canada border are listed in § 130.7(a).

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *User Fees for Other Services (§ 130.8)*

Section 130.8 lists the user fees we charge for a variety of other services we provide related to the importation into or exportation from the United States of animals, animal products, birds, germ plasm, organisms, and vectors.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *User Fees for Pet Birds (§ 130.10)*

Section 130.10 lists user fees charged for services we provide for pet birds that must be quarantined in an APHIS-owned or -supervised quarantine facility.

In accordance with 9 CFR part 93, pet birds are normally quarantined for 30 days. We charge a daily user fee. The user fee applies per isolette and varies based on the number of pet birds in the isolette. That is, all the birds quarantined in one isolette are covered

by one fee, which is assessed daily for the duration of the quarantine.

This user fee recovers all costs of feeding, housing, handling, and caring for the birds. The user fee does not recover the costs of testing the birds, for which separate user fees apply.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *User Fees for Inspecting and Approving Import/Export Facilities and Establishments (§ 130.11)*

Section 130.11 lists the user fees for inspections of approved import/export facilities and establishments. These facilities include embryo collection centers, establishments approved by APHIS for the receipt and handling of restricted import animal products or byproducts, and bio-security level three laboratories that handle foreign or domestic animal disease agents, organisms, or vectors which require special biocontainment measures. Fees for inspections required for approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96 are also listed in this section.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *User Fees for Endorsing Export Certificates (§ 130.20)*

Section 130.20 lists user fees we charge for endorsing certificates for animals or animal products exported from the United States. The importing countries often require these certificates to show that an animal has tested negative to specific animal diseases or that an animal or animal product has not been exposed to specific animal diseases.

These user fees are intended to cover all of the costs associated with endorsing the certificates. The steps

associated with endorsing an export certificate may include reviewing supporting documentation; confirming that the importing country's requirements have been met; verifying laboratory test results for each animal if tests are required; reviewing any certification statements required by the importing country; and endorsing, or signing, the certificates.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### *Hourly Rate and Minimum User Fees* (§ 130.30)

Several sections of the regulations calculate user fees for services at the hourly and premium hourly rates for import- and export-related services that we provide. For example, § 130.5 of the regulations charges user fees based on the hourly and premium hourly rate for services that we provide for animals quarantined in privately owned quarantine facilities.

The proposed hourly rate, premium hourly rate, and minimum user fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

For this proposed rule we have prepared an economic analysis. The economic analysis, which is summarized below, provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act. A copy of the

full economic analysis, which includes comparisons of the change in each user fee, may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The Secretary of Agriculture is authorized by the Food, Agriculture, Conservation and Trade Act of 1990, as amended, to prescribe and collect fees to recover the costs of providing import and export services. APHIS is proposing to amend the user fees for providing veterinary services for import and export activities (9 CFR part 130). These fees would be updated to take into account the routine increases in the cost of doing business, such as inflation, replacing equipment, maintaining databases, etc., that have occurred since the last update and those that are expected to occur over the next 5 years. In addition, the fees would be adjusted to incorporate expenditures to maintain the current level of operations, improve service and keep up with expanding demand for services. These expenditures include things from roof replacement to the modernization of facilities.

User fees recover the cost of operating a public system by charging those members of the public who use the system, rather than the public as a whole, for its operation. User fees result in movement toward a more socially optimal level of demand where users fully incorporate the cost of APHIS services into their private costs. In addition, by setting the fees for these veterinary services to fully recover the associated costs, we can assure that the program operates at a level considered sufficient to meet the demand for these services. If APHIS were to continue to collect user fees at the current rates over the time period covered by the proposal, total collections would be approximately \$113 million, nearly \$54 million less than the projected cost of administering the program from FY 2009 through FY 2013. This demonstrates the magnitude of the shortfall in cost recovery that would occur absent the changes.

#### **Effects on Small Entities**

The user fee revisions included in this proposal could affect some importers and exporters of live animals, animal products, and animal byproducts. The Small Business Administration (SBA)

has established guidelines for determining which businesses are to be considered small. Importers and exporters of live animals, animal products, and animal byproducts are identified within the broader wholesaling trade sector of the U.S. economy. A firm primarily engaged in wholesaling animals or animal products is considered small if it employs not more than 100 persons. These entities either sell goods on their own account (import/export merchants) or arrange for the sale of goods owned by others (import/export agents and brokers). The North American Industry Classification System (NAICS) code 424430 covers dairy products (except dried or canned) merchant wholesalers. According to the 2002 Economic Census (the most recent census available), more than 98 percent of these wholesalers would be considered small by SBA standards.<sup>1</sup> NAICS code 424440 covers poultry and poultry product merchant wholesalers. About 97 percent of these firms would be considered small according to the 2002 Economic Census. NAICS code 424470 covers meat and meat product merchant wholesalers. About 97 percent of these firms would be considered small according to the 2002 Economic Census. NAICS code 424520 covers livestock merchant wholesalers. More than 99 percent of the firms in this category would be considered small according to the 2002 Economic Census. Thus, the vast majority of entities potentially affected by the proposed changes are likely to be considered small. However, the total impact of the proposed changes should be small, as the proposed fee changes represent a tiny fraction of the value of the shipments of animals and animal products. Imports and exports of livestock, meats, dairy products, poultry, and poultry products were valued at more than \$23.8 billion in 2005. By contrast, the increase in annual collections from user fees included in this proposed rule would be about \$5.3 million in FY 2009, and rising to about \$14 million in 2013. We do not know the proportion of import and export services that are provided to small entities. However, the degree to which any firm, whether small or large, would be impacted by these changes is dependent on their level of participation in import or export trade. Based on the information that is available, the effects of the proposed changes should be small whether the entity affected is small or large.

<sup>1</sup> 2002 Economic Census, Department of Commerce, United States Bureau of the Census.

We invite public comment on the proposed rule—including any comments on the expected economic effects on small entities, and on how the proposed rule could be modified to reduce expected costs or burdens for small entities consistent with its objectives. Any comment suggesting changes to the proposed criteria should be supported by an explanation of why the changes should be considered.

**Alternatives**

One alternative to this rule would be to leave the regulations unchanged. In this case, the fees would remain unchanged. The fees do not take into account the routine increases in the cost of doing business, such as inflation, replacing equipment, maintaining databases, etc., that have occurred since the last update. In addition, the fees are being adjusted to incorporate expenditures to maintain the current level of operations, improve service, and keep up with expanding demand for services. If APHIS were to continue to collect user fees at the current rates in fiscal years 2009 through 2013, total collections would be nearly \$54 million short of projected program costs over that period. Therefore, this alternative was rejected.

Another alternative to this rule would be to charge hourly rate fees for all veterinary services. However, flat rate user fees are appropriate when the cost of providing a service is unchanging from user to user and the service is requested in relatively large numbers. It would be unnecessarily complex and costly to track hourly charges for services where a flat rate could be consistently used. Therefore, this alternative was rejected.

Another alternative to this rule would be to change all hourly fees to flat rate fees. However, charging a flat rate is not appropriate in all situations. We charge flat rate fees in cases where a service takes a consistent amount of time to perform, but for some services there can be a disparity in the time it takes to perform a given service for one user versus another. For example, hourly rates are charged for the inspection of biosecurity level 2 (BSL-2) laboratories, including travel. The inspection covers

a specific checklist and is therefore similar from facility to facility. However, the amount of travel time required of the inspector varies widely, depending on the location of the facility. It would be unfair to charge both users the same flat fee for those inspections. Therefore, this alternative was rejected.

**Cost-Benefit Analysis**

User fees for veterinary services are intended to meet broad economic objectives. User fees promote the internalization of the real cost of providing these veterinary services in consumer transaction decisions. User fees also achieve savings in Government expenditures, and therefore reduce the tax support necessary for the system to operate at a given level. These tax funds can then be used in other programs or to reduce taxes overall and thus diminish efficiency losses associated with the generation of taxes (deadweight loss plus collection costs).

Import and export veterinary services enhance livestock trade and protect American agriculture. By helping to prevent foreign pests and diseases from entering the United States, these services help to prevent losses to animals and their products and markets. Losses include reduction in yield and productivity of affected hosts, public and private control costs, and loss in export revenue due to trade embargoes. The harm to American agriculture associated with the introduction of foreign pests and diseases can be immense. Federal spending associated with the outbreak of exotic Newcastle disease that began in October of 2002 was approximately \$170 million. In addition, the total direct value of the export restrictions which were in place from October 2002 through December 2003 has been estimated to be \$167 million.<sup>2</sup>

User fees recover the cost of operating a public system by charging those members of the public who use the system, rather than the public as a whole, for its operation. By setting the fees for these veterinary services to fully recover the associated costs, we can assure that the program operates at a level sufficient to meet the needs of

agricultural trade and minimize the risk of introduction of pests and diseases.

This proposed rule contains no new information collection or recordkeeping requirements. (See “Paperwork Reduction Act” below.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 9 CFR Part 130**

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we propose to amend 9 CFR part 130 as follows:

**PART 130—USER FEES**

1. The authority citation for part 130 continues to read as follows:

**Authority:** 5 U.S.C. 5542; 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.4.

2. Section 130.2 is amended as follows:

a. By revising the section heading to read as set forth below.

b. In paragraph (a), by revising the table to read as set forth below.

c. In paragraph (b), by revising the table to read as set forth below.

d. By removing paragraph (d).

**§ 130.2 User fees for individual animals and certain birds quarantined in the APHIS-owned or -operated quarantine facilities, including APHIS Animal Import Centers.**

(a) \* \* \*

Animal or bird	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Birds (excluding ratites and pet birds imported in accordance with part 93 of this subchapter):					
0–250 grams .....	\$2.50	\$2.75	\$2.75	\$2.75	\$3.00

<sup>2</sup> *Economic Impact of Poultry Export Restrictions.* USDA–APHIS, CEAH.

Animal or bird	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
251–1,000 grams .....	8.25	8.50	8.75	9.00	9.25
Over 1,000 grams .....	18.00	19.00	19.00	20.00	21.00
Domestic or zoo animals (except equines, birds, and poultry):					
Bison, bulls, camels, cattle, or zoo animals .....	144.00	149.00	153.00	158.00	162.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine .....	38.00	39.00	40.00	42.00	43.00
Equines (including zoo equines, but excluding miniature horses):					
1st through 3rd day (fee per day) .....	382.00	393.00	405.00	417.00	429.00
4th through 7th day (fee per day) .....	276.00	284.00	292.00	301.00	310.00
8th and subsequent days (fee per day) .....	235.00	242.00	249.00	256.00	264.00
Miniature horses .....	86.00	89.00	91.00	94.00	97.00
Poultry (including zoo poultry):					
Doves, pigeons, quail .....	5.00	5.25	5.50	5.50	5.75
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants .....	9.00	9.25	9.50	9.75	10.00
Large poultry and large waterfowl, including, but not limited to, gamecocks, geese, swans, and turkeys ..	21.00	22.00	22.00	23.00	24.00
Ratites:					
Chicks (less than 3 months old) .....	13.00	13.00	14.00	14.00	15.00
Juveniles (3 months through 10 months old) .....	20.00	20.00	21.00	22.00	22.00
Adults (11 months old or older) .....	38.00	39.00	40.00	42.00	43.00

(b) \* \* \*

Bird or poultry (nonstandard housing, care, or handling)	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Birds 0–250 grams and doves, pigeons and quail .....	\$8.25	\$8.50	\$8.75	\$9.00	\$9.25
Birds 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants .....	18.00	19.00	19.00	20.00	21.00
Birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to gamecocks, geese, swans, and turkeys .....	35.00	36.00	37.00	39.00	40.00

\* \* \* \* \*

3. In § 130.3, paragraph (a)(1), the table is revised to read as follows:

**§ 130.3 User fees for exclusive use of space at APHIS Animal Import Centers.**

(a)(1) \* \* \*

Animal import center	Monthly user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Newburgh, NY:					
Space A 5,396 sq. ft. (503.1 sq. m.) .....	\$83,756.00	\$86,268.00	\$88,856.00	\$91,513.00	\$94,249.00
Space B 8,903 sq. ft. (827.1 sq. m.) .....	138,190.00	142,335.00	146,605.00	150,989.00	155,504.00
Space C 905 sq. ft. (84.1 sq. m.) .....	14,047.00	14,469.00	14,903.00	15,348.00	15,807.00

\* \* \* \* \*

4. In § 130.4, the table is revised to read as follows:

**§ 130.4 User fees for processing import permit applications.**

\* \* \* \* \*

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Import compliance assistance:						
Simple (4 hours or less) .....	Per shipment .....	\$99.00	\$102.00	\$105.00	\$108.00	\$111.00
Complicated (more than 4 hours)	Per shipment .....	514.00	514.00	531.00	548.00	565.00

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Processing an application for a permit to import live animals, animal products or by-products, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors: <sup>1</sup>						
Initial permit .....	Per application .....	133.00	137.00	141.00	145.00	150.00
Amended permit .....	Per amended application .....	66.00	68.00	70.00	73.00	75.00
Renewed permit <sup>2</sup> .....	Per application .....	86.00	89.00	91.00	94.00	97.00
Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application .....	455.00	469.00	483.00	497.00	512.00

<sup>1</sup> Using Veterinary Services Form 16–3, “Application for Permit to Import or Transport Controlled Material or Organisms or Vectors,” or Form 17–129, “Application for Import or In-Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs).”  
<sup>2</sup> Permits to import germ plasm and live animals are not renewable.

5. In § 130.6, paragraph (a), the table is revised to read as follows:

**§ 130.6 User fees for inspection of live animals at land border ports along the United States-Mexico border.**

Type of live animal	Per head user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Any ruminants (including breeder ruminants) not covered below .....	\$13.00	\$13.00	\$14.00	\$14.00	\$14.00
Feeder .....	3.75	3.75	4.00	4.00	4.00
Horses, other than slaughter .....	62.00	64.00	66.00	68.00	70.00
In-bond or in-transit .....	8.25	8.50	8.75	9.00	9.25
Slaughter .....	5.50	5.50	5.75	6.00	6.00

\* \* \* \* \*

6. In § 130.7, paragraph (a), the table is revised to read as follows:

**§ 130.7 User fees for import or entry services for live animals at land border ports along the United States-Canada border.**

(a) \* \* \*

Type of live animal	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Animals being imported into the United States:						
Breeding animals (Grade animals, except horses):						
Sheep and goats .....	Per head .....	\$0.75	\$0.75	\$0.75	\$1.00	\$1.00
Swine .....	Per head .....	1.25	1.25	1.25	1.25	1.25
All others .....	Per head .....	4.75	4.75	5.00	5.25	5.25
Feeder animals:						
Cattle (not including calves) .....	Per head .....	2.25	2.25	2.50	2.50	2.50
Sheep and calves .....	Per head .....	0.75	0.75	1.00	1.00	1.00
Swine .....	Per head .....	0.50	0.50	0.50	0.50	0.50
Horses (including registered horses) other than slaughter and in-transit.	Per head .....	41.00	42.00	43.00	45.00	46.00
Poultry (including eggs), imported for any purpose.	Per load .....	71.00	73.00	75.00	77.00	80.00
Registered animals, all types (except horses).	Per head .....	8.50	8.75	9.25	9.50	9.75
Slaughter animals, all types (except poultry).	Per load .....	35.00	36.00	37.00	39.00	40.00
Animals transiting <sup>1</sup> the United States:						
Cattle .....	Per head .....	2.25	2.25	2.50	2.50	2.50
Sheep and goats .....	Per head .....	0.50	0.50	0.50	0.50	0.50

Type of live animal	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Swine .....	Per head .....	0.50	0.50	0.50	0.50	0.50
Horses and all other animals .....	Per head .....	9.75	10.00	10.00	10.00	11.00

<sup>1</sup> The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee in § 130.30 will apply.

\* \* \* \* \*

7. In § 130.8, paragraph (a), the table is revised to read as follows:

**§ 130.8 User fees for other services.**  
(a) \* \* \*

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Germ plasm being exported: <sup>1</sup>						
Embryo:						
Up to 5 donor pairs .....	Per certificate .....	\$117.00	\$121.00	\$124.00	\$128.00	\$132.00
Each additional group of donor pairs, up to 5 pairs per group on the same certificate.	Per group of donor pairs.	52.00	54.00	55.00	57.00	59.00
Semen .....	Per certificate .....	72.00	74.00	76.00	79.00	81.00
Release from export agricultural hold:						
Simple (2 hours or less) .....	Per release .....	99.00	102.00	105.00	108.00	111.00
Complicated (more than 2 hours)	Per release .....	254.00	262.00	270.00	278.00	286.00

<sup>1</sup> This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the hourly user fee in § 130.3 will apply.

\* \* \* \* \*

8. Section 130.10 is amended as follows:

a. In paragraph (a), by revising the table to read as set forth below.  
b. In paragraph (b), by revising the table to read as set forth below.

**§ 130.10 User fees for pet birds.**  
(a) \* \* \*

Service	Per lot user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
(1) Which have been out of the United States 60 days or less .....	\$153.00	\$157.00	\$162.00	\$167.00	\$172.00
(2) Which have been out of the United States more than 60 days .....	363.00	374.00	385.00	397.00	409.00

(b) \* \* \*

Number of birds in isolette	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
1 .....	\$13.00	\$13.00	\$14.00	\$14.00	\$15.00
2 .....	16.00	16.00	17.00	17.00	18.00
3 .....	18.00	19.00	19.00	20.00	21.00
4 .....	21.00	22.00	22.00	23.00	24.00
5 or more .....	25.00	26.00	27.00	28.00	29.00

\* \* \* \* \*

9. In § 130.11, paragraph (a), the table is revised to read as follows:

**§ 130.11 User fees for inspecting and approving import/export facilities and establishments.**  
(a) \* \* \*

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year .....	\$537.00	\$553.00	\$570.00	\$587.00	\$604.00
Inspection for approval of biosecurity level three labs (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection .....	1,381.00	1,422.00	1,465.00	1,509.00	1,554.00
Inspection for approval of slaughter establishment:						
Initial approval (all inspections) ..	Per year .....	527.00	543.00	559.00	576.00	593.00
Renewal (all inspections) .....	Per year .....	457.00	470.00	484.00	499.00	514.00
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:						
Approval (compliance agreement) (all inspections for first year of 3-year approval).	Per year .....	563.00	579.00	597.00	615.00	633.00
Renewal (all inspections for second and third years of 3-year approval).	Per year .....	325.00	335.00	345.00	355.00	366.00

\* \* \* \* \*  
10. Section 130.20 is amended as follows:

a. In paragraph (a), by revising the table to read as set forth below.  
b. In paragraph (b)(1), by revising the table to read as set forth below.

**§ 130.20 User fees for endorsing export certificates.**

(a) \* \* \*

Certificate categories	User fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Animal and nonanimal products .....	\$45.00	\$47.00	\$48.00	\$49.00	\$51.00
Hatching eggs .....	42.00	44.00	45.00	46.00	48.00
Poultry, including slaughter poultry .....	42.00	44.00	45.00	46.00	48.00
Ruminants, except slaughter ruminants moving to Canada or Mexico .....	47.00	48.00	49.00	51.00	52.00
Slaughter animals (except poultry but including ruminants) moving to Canada or Mexico .....	49.00	51.00	52.00	54.00	56.00
Other endorsements or certifications .....	34.00	35.00	36.00	37.00	38.00

(b)(1) \* \* \*

Number of tests or vaccinations and number of animals or birds on the certificate	User fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
1–2 tests or vaccinations:					
Nonslaughter horses to Canada:					
First animal .....	\$54.00	\$55.00	\$57.00	\$59.00	\$60.00
Each additional animal .....	6.25	6.25	6.50	6.75	7.00
Other animals or birds:					
First animal .....	107.00	111.00	114.00	117.00	121.00
Each additional animal .....	6.25	6.25	6.50	6.75	7.00
3–6 tests or vaccinations:					
First animal .....	133.00	137.00	141.00	145.00	150.00
Each additional animal .....	10.00	11.00	11.00	11.00	12.00
7 or more tests or vaccinations:					
First animal .....	154.00	159.00	163.00	168.00	173.00
Each additional animal .....	12.00	12.00	13.00	13.00	14.00

\* \* \* \* \*  
11. Section 130.30 is amended as follows:

a. In paragraph (a), by revising the table to read as set forth below.

b. In paragraph (b), by revising the table to read as set forth below.

**§ 130.30 Hourly rate and minimum user fees.**

(a) \* \* \*

	User fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Hourly rate:					
Per hour .....	\$120.00	\$120.00	\$124.00	\$128.00	\$132.00
Per quarter hour .....	30.00	30.00	31.00	32.00	33.00
Per service minimum fee .....	35.00	36.00	37.00	39.00	40.00

\* \* \* \* \*

(b) \* \* \*

Overtime rates (outside the employee's normal tour of duty)	Premium rate user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Premium hourly rate Monday through Saturday and holidays:					
Per hour .....	\$140.00	\$144.00	\$148.00	\$152.00	\$156.00
Per quarter hour .....	35.00	36.00	37.00	38.00	39.00
Premium hourly rate for Sundays:					
Per hour .....	160.00	164.00	168.00	172.00	176.00
Per quarter hour .....	40.00	41.00	42.00	43.00	44.00

\* \* \* \* \*

Done in Washington, DC, this 23rd day of May, 2008.

**Bruce Knight,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. E8–12376 Filed 6–3–08; 8:45 am]

**BILLING CODE 3410–34–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA–2008–0609; Directorate Identifier 2008–SW–24–AD]

RIN 2120–AA64

**Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes adopting a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters. The AD would require an initial and recurring inspections of the tail rotor vertical stabilizer aft spar assembly (aft spar assembly) for a crack, loose or working fasteners, and corrosion, and, if any are found, further inspections of the vertical stabilizer

forward spar assembly (forward spar assembly). Repairing or replacing any unairworthy part before further flight would also be required. The action would also require a recurring track-and-balance of the tail rotor. Finally, the proposed AD would require installing a vertical stabilizer modification kit, which would be terminating action for the requirements of the AD. This proposal is prompted by 26 reports of fatigue cracks in the aft spar assembly web and outer caps. The actions specified by the proposed AD are intended to detect and correct an unbalanced or out-of-track tail rotor, which could lead to increased vibrations, a fatigue crack, loss of a portion of the vertical stabilizer and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before August 4, 2008.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE.,

Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, Mailstop s581a, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 383–4866, e-mail address [tsslibrary@sikorsky.com](mailto:tsslibrary@sikorsky.com).

**FOR FURTHER INFORMATION CONTACT:** Richard Noll, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7160, fax (781) 238–7170.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number “FAA–2008–0609, Directorate Identifier 2008–SW–24–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We

will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of the docket Web site, you can find and read the comments to any of our dockets, and if provided, the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

**Examining the Docket**

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647-5527) is located in Room W12-140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**Discussion**

This document proposes adopting a new AD for Sikorsky Model S-76A, S-76B, and S-76C helicopters with any of the following part-numbered aft spar assemblies installed:

Helicopter model	Aft spar assembly part No.
S-76A .....	76201-05002-114 76201-05002-115 76201-05002-047
S-76B and S-76C .....	76201-05002-048 76201-25002-041 76201-25002-044 76201-25002-045 76201-25002-046

For any aft spar assembly having 1,000 or more hours time-in-service (TIS), the AD would require, initially and then at intervals not to exceed 50 hours TIS, inspecting the aft spar assembly for a crack, a loose or working fastener, or corrosion. If a crack, a loose or working fastener, or corrosion is found, repairing or replacing any unairworthy parts and inspecting the forward spar assembly would be required before further flight. If that inspection reveals a crack, a loose or working fastener, or corrosion in the forward spar assembly, then the damage would have to be repaired or the parts would need to be replaced with airworthy parts before further flight. The AD would also require a track-and-balance of the tail rotor within 30 days and thereafter at intervals not to exceed 200 hours TIS. The AD would also require, on or before December 31, 2010,

installing a vertical stabilizer modification kit, part number (P/N) 76070-20562, 76070-20563, or 76070-20564, which would be terminating action for the requirements of the AD.

This proposal is prompted by 26 reports of fatigue cracks in the aft spar assembly web and outer caps since February 1998. The actions specified in this proposed AD are intended to detect and correct an unbalanced or out-of-track tail rotor, which could lead to increased vibrations, a fatigue crack, loss of a portion of the vertical stabilizer and subsequent loss of control of the helicopter.

We have reviewed the following service information:

- Sikorsky Alert Service Bulletin (ASB) No. 76-55-20A, Revision A, dated November 11, 2003, that applies to Sikorsky Model S-76A and Model S-76C helicopters and describes procedures for a one-time inspection of the vertical stabilizer aft spar assembly for cracks, loose or working fasteners, and/or corrosion, and if necessary an inspection of the forward spar assembly.
- ASB No. 76-65-58A, Revision A, dated November 11, 2003, that applies to all Sikorsky Model S-76 serial numbered helicopters up to and including 760526 and describes procedures for an initial enhanced tail rotor balance check.

This proposal would differ from those ASBs in that the inspections described in ASB No. 76-55-20A would be required for the Model S-76B helicopters as well as for the Model S-76A and Model S-76C helicopters. Also, the proposed AD would require repetitive inspections of the aft spar assembly and the forward spar assembly, if necessary, and repetitive tail rotor track-and-balance inspections, whereas the two ASBs specify only a one-time tail rotor balance check and an aft spar assembly inspection and, if necessary, a one-time forward spar assembly inspection.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs. Therefore, the proposed AD would require, for any spar assembly that has 1,000 or more hours TIS, within 30 days and thereafter at intervals not to exceed 50 hours TIS, inspecting the aft spar assembly, and if you find a crack, a loose or working fastener, or corrosion, inspecting the forward spar assembly before further flight and replacing or repairing any unairworthy part with an airworthy part before further flight.

The AD would also require, within 30 days and thereafter at intervals not to exceed 200 hours TIS, inspecting the tail rotor track-and-balance.

Accomplishing the tail rotor track-and-balance inspection would involve both a pilot and mechanic. The pilot's function would be to operate the helicopter to a "light on wheels" state—almost to the point of takeoff, and the mechanic would accomplish the vibration measurements. Also, the AD would require, on or before December 31, 2010, installing a vertical stabilizer modification kit, P/N 76070-20562, 76070-20563, or 76070-20564, which would be terminating action for the requirements of the AD. The inspections and repairs or replacements, if necessary, would have to be accomplished in accordance with specified portions of the ASBs previously described.

We estimate that this proposed AD would affect 216 helicopters of U.S. registry. We also estimate that the inspections for a crack, a loose or working fastener, or corrosion would take approximately 7 work hours per helicopter to accomplish; the tail rotor track-and-balance inspections and adjustments would take approximately 10 work hours per helicopter; and installing the vertical stabilizer modification kit would take approximately 120 hours, at an average labor rate of \$80 per work hour. The vertical stabilizer modification kit would cost approximately \$4,250. Based on these figures, we estimate the total cost impact of this AD on U.S. operators would be \$4,961,520, assuming that, on each helicopter, 12 spar assembly inspections would be done (\$1,451,520), that 3 tail rotor track-and-balance inspections would be done (\$518,400), that no spar assembly would need to be repaired or replaced, and that the vertical stabilizer modification is done.

**Regulatory Findings**

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, this proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the AD docket to examine the draft economic evaluation.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**Sikorsky Aircraft Corporation:** Docket No. FAA-2008-0609; Directorate Identifier 2008-SW-24-AD.

**Applicability:** Model S-76A, S-76B, and S-76C helicopters with any of the following part-numbered vertical stabilizer aft spars assemblies having 1,000 or more hours time-in-service (TIS) installed, certificated in any category.

Helicopter model	Vertical stabilizer aft spar assembly part No.
S-76A .....	76201-05002-114 76201-05002-115
S-76B and S-76C .....	76201-05002-047

Helicopter model	Vertical stabilizer aft spar assembly part No.
	76201-05002-048 76201-25002-041 76201-25002-044 76201-25002-045 76201-25002-046

**Compliance:** Required as indicated. To detect and correct an unbalanced or out-of-track tail rotor, which could lead to increased vibrations a fatigue crack, loss of a portion of the vertical stabilizer, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 30 days, unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS, inspect the vertical stabilizer aft spar assembly (aft spar assembly) for a crack, a loose or working fastener, or corrosion in accordance with the Accomplishment Instructions, paragraph 3.A., in Sikorsky Alert Service Bulletin (ASB) No. 76-55-20A, Revision A, dated November 11, 2003 (No. 76-55-20A). For purposes of this AD, ASB No 76-55-20A pertains to Model S-76B helicopters as well as Model S-76A and S-76C helicopters.

(1) If a crack, a loose or working fastener, or corrosion is found in the aft spar assembly, before further flight:

(i) Repair or replace any unairworthy parts and

(ii) Inspect the vertical stabilizer forward spar assembly (forward spar assembly) for a crack, a loose or working fastener, or corrosion in accordance with the Accomplishment Instructions, paragraph 3.B., in ASB No. 76-55-20A. Contacting the manufacturer is not required by this AD.

(2) If a crack, a loose or working fastener, or corrosion is found in the forward spar assembly, repair in accordance with the applicable maintenance manual or replace with airworthy parts before further flight.

(b) Within 30 days, unless accomplished previously, and thereafter at intervals not to exceed 200 hours TIS, track-and-balance the tail rotor in accordance with the Accomplishment Instructions, paragraph 3.A., in ASB No. 76-65-58A, dated November 11, 2003.

**Note 1:** Although the ASB specifies only an initial inspection of the aft spar assembly and a track-and-balance of the tail rotor, this AD requires inspecting the aft spar assembly and track-and-balance the tail rotor repetitively.

**Note 2:** The track-and-balancing of the tail rotor that is required by paragraph (b) of this AD involves both a pilot and mechanic. The pilot's function is to operate the helicopter to a "light on wheels" state—almost to the point of takeoff. The mechanic is needed to accomplish the vibration measurements.

(c) On or before December 31, 2010, install a vertical stabilizer modification kit, part number 76070-20562, 76070-20563, or 76070-20564. Installing the vertical stabilizer modification kit is terminating action for the requirements of this AD.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR

39.19. Contact the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, ATTN: Richard Noll, Aviation Safety Engineer, FAA, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7160, fax (781) 238-7170, for information about previously approved alternative methods of compliance.

Issued in Fort Worth, Texas, on May 22, 2008.

**David A. Downey,**  
Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8-12414 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-0391]

RIN 1625-AA00

**Safety Zone; Fireworks Display, Upper Potomac River, Washington Channel, Washington Harbor, DC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone upon specified waters of the Upper Potomac River. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge located within Washington Channel, in Washington Harbor, DC. This action will restrict vessel traffic in a portion of the Washington Channel.

**DATES:** Comments and related material must reach the Coast Guard on or before July 7, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0391 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) Fax: 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Mr. Ronald L. Houck, Coast Guard Sector Baltimore, at (410) 576-2674 or (410) 576-2693. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

*Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0391), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2008-0391) in the Search box, and click "Go >>." You may also visit either the Docket Management Facility in Room W12-140 on the

ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

*Privacy Act*

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

*Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The accidental discharge of fireworks and falling hot embers or other debris are a safety concern during such events. The Coast Guard has the authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The purpose of this rule is to promote maritime safety, and to protect mariners transiting the area from the potential hazards associated with a fireworks display. The rule is needed to control movement in a portion of the waterway that is expected to be populated by spectators seeking to view the fireworks display and mariners operating unknowingly too close to the fireworks discharge site.

**Discussion of Proposed Rule**

In support of its 2008 Centennial Boule, marking the 100th anniversary of its founding, the Alpha Kappa Alpha Sorority, Inc. will sponsor a fireworks display in Washington Harbor, DC. The planned fireworks event includes a fifteen-minute aerial display launched from a barge in the Washington Channel

at 9:30 p.m. on Wednesday, July 16, 2008.

To provide for the safety of spectators and transiting vessels, the Captain of the Port Baltimore, Maryland is proposing to establish a safety zone that will be enforced during the fireworks display held on specified waters of the Upper Potomac River. The proposed rule establishes a safety zone on the waters of the Washington Channel, within a 150-yard radius of the fireworks barge in approximate position latitude 38°52'09" N, longitude 077°01'13" W, located within the Washington Channel in Washington Harbor, DC. The rule will impact the movement of all persons and vessels operating in specified waters of the Washington Channel, from 8 p.m. through 10:30 p.m. on July 16, 2008, and if necessary due to inclement weather, from 8 p.m. through 10:30 p.m. on July 17, 2008.

**Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. There is little commercial vessel traffic during the enforcement period.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to operate, remain or anchor within certain waters of the Washington Channel, in Washington Harbor, DC, from 8 p.m. through 10:30 p.m. on July 16, 2008, and if necessary due to inclement weather, from 8 p.m. through 10:30 p.m. on July 17, 2008. Because the zone is of

limited duration, it is expected that there will be minimal disruption to the maritime community. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the waterway to allow mariners to make alternative plans for transiting the affected area. In addition, smaller vessels not constrained by their draft, which are more likely to be small entities, may transit around the safety zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### **Collection of Information**

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### **Indian Tribal Governments**

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### **Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this proposed rule under Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. The rule establishes a temporary safety zone. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add temporary § 165.T05–0391 to read as follows:

#### **§ 165.T05–0391 Safety zone; Fireworks Display, Upper Potomac River, Washington Channel, Washington Harbor, DC.**

(a) *Definitions.* For the purposes of this section, Captain of the Port, Baltimore, Maryland means the

Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his or her behalf.

(b) *Location.* The following area is a safety zone: All waters of the Upper Potomac River, surface to bottom, within a 150-yard radius of the fireworks barge in approximate position latitude 38°52'09" N, longitude 077°01'13" W, located within the Washington Channel in Washington Harbor, DC. All coordinates reference North American Datum 1983.

(c) *Regulations:*

(1) The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited, unless authorized by the Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the moving safety zone must first request authorization from the Captain of the Port, Baltimore, Maryland to seek permission to transit the area. The Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576-2693. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF Channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the person or vessel shall proceed as directed. If permission is granted, all persons or vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland, and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Enforcement periods.* This section will be enforced from 8 p.m. through 10:30 p.m. on July 16, 2008, and if necessary due to inclement weather, from 8 p.m. through 10:30 p.m. on July 17, 2008.

Dated: May 20, 2008.

**Brian D. Kelley,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

[FR Doc. E8-12475 Filed 6-3-08; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0349]

RIN 1625-AA00

#### Safety Zones; Fireworks, Central and Northern Massachusetts

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes the temporary creation of safety zones for fireworks events being held on several waterways of Massachusetts this summer. These safety zones will last for the limited duration of the six fireworks events occurring near the water along the central and northern portions of Massachusetts' Atlantic Coast. The zones are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays.

**DATES:** Comments and related material must reach the Coast Guard on or before July 7, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0349 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.  
 (2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Chief Eldridge McFadden at 617-223-5160. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0349), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2008-0349) in the Search box, and click "Go >>." You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector Boston, 427 Commercial Street, Boston, MA 02109 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on

behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

#### Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

This rule proposes to establish six individual safety zones on the waters of Nahant Bay, Manchester Bay, Marblehead Harbor, Beverly Harbor, Ipswich Bay, and Hingham Harbors during fireworks events on the nights and times listed herein.

The safety zones proposed by this rule would temporarily restrict movement near fireworks displays being held in Nahant Bay, Manchester Bay, Marblehead Harbor, Beverly Harbor, Ipswich Bay, and Hingham Harbor. The proposed zones will protect the maritime public from the dangers inherent in waterborne fireworks displays. Marine traffic may transit safely outside the safety zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to implementation of these temporary safety zones. Public notifications will be made prior to the effective period of each proposed zone via safety marine information broadcasts and Local Notice to Mariners.

#### Discussion of Proposed Rule

The Coast Guard proposes to establish temporary safety zones on the waters of Nahant Bay, Manchester Bay, Marblehead Harbor, Beverly Harbor, Ipswich Bay, and Hingham Harbors in Massachusetts within a 200-yard radius of the barges from which fireworks will be shot during events in each of these waterways at the times listed in the proposed rule. Marine traffic would be able to transit safely outside of each safety zone in the majority of Nahant Bay, Manchester Bay, Marblehead Harbor, Beverly Harbor, Ipswich Bay, and Hingham Harbors not affected by the proposed rule during the event. This safety zone will control vessel traffic during the fireworks display to protect the safety of the maritime public.

Due to the limited time frame of the fireworks display, the Captain of the

Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local media, local notice to mariners and marine information broadcasts.

#### Regulatory Evaluation

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

#### Executive Order 12866

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this proposed rule would prevent traffic from transiting a portion of Nahant Bay, Manchester Bay, Marblehead Harbor, Beverly Harbor, Ipswich Bay, and Hingham Harbors during the effective period, the effects of this rule will not be significant for several reasons: vessels will be excluded from the proscribed areas for only two and one half hours, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portion of Nahant Bay, Manchester Bay, Marblehead Harbor, Beverly Harbor,

Ipswich Bay, and Hingham Harbor at the times listed in the proposed rule.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for only two and one half hours, vessel traffic can safely pass around the safety zone during the effected period, and advance notification via safety marine informational broadcast and Local Notice to Mariners will be made before and during the effective period.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Eldridge McFadden at 617-223-5160. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary "Environmental Analysis Check List" supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01–0349 to read as follows:

#### § 165.T01–0349 Safety Zones; Northern and Central Massachusetts, Coastal fireworks displays.

(a) *Location.* The following waterborne fireworks events include safety zones as described herein:

(1) *Beverly Homecoming Fireworks Event, Beverly, MA.* (i) All waters of Beverly Harbor, from surface to bottom, within a 200 yard radius of the fireworks barge located at approximate position 42°32'37" N, 070°52'09" W. These coordinates are based upon NAD83 datum.

(ii) *Effective Date.* This rule will be effective from 9 p.m. through 11 p.m. on August 10, 2008.

(2) *Independence Day Celebration Fireworks, Ipswich, MA.* (i) All waters of Ipswich Bay, from surface to bottom, within a 200 yard radius of the beach at the approximate position 42°41'26" N, 070°46'28" W. These coordinates are based upon NAD83 datum.

(ii) *Effective Date.* This rule will be effective from 9 p.m. through 10 p.m. on July 4, 2008.

(3) *City of Lynn 4th of July Celebration, Lynn, MA.* (i) All waters of Nahant Bay, from surface to bottom, within a 200 yard radius of the fireworks barge located at 42°27'37" N, 70°55'35" W. These coordinates are based upon NAD83 datum.

(ii) *Effective Date.* This rule will be effective from 8:15 p.m. through 10 p.m. on July 3, 2008 with a rain date of July 5, 2008.

(4) *Manchester Parks and Recreation 4th of July Fireworks, Manchester, MA.* (i) All waters of Manchester Bay, from surface to bottom, within a 200 yard radius of the fireworks barge located at 42°35'2" N, 70°45'31" W. These coordinates are based upon NAD83 datum.

(ii) *Effective Date.* This rule will be effective from 8:30 p.m. through 10 p.m. on July 3, 2008 with a rain date of July 5, 2008.

(5) *Marblehead 4th of July Celebration, Marblehead, MA.* (i) All waters of Marblehead Harbor, from surface to bottom, within a 200 yard radius of the fireworks launch site located in Marblehead Harbor at approximate position 42°30'34" N, 070°50'9" W. These coordinates are based upon NAD83 datum.

(ii) *Effective Date.* This rule will be effective from 8:30 p.m. until 10 p.m. on July 4, 2008 with a rain date of July 5, 2008.

(6) *Hingham 4th of July Fireworks, Hingham, MA.* (i) All waters of Hingham Bay, from surface to bottom, within a 200 yard radius of the beach of Button Island at the approximate position 42°15'04" N, 070°53'02" W. These

coordinates are based upon NAD83 datum.

(ii) Effective Date. This rule will be effective from 8:30 p.m. until 10 p.m. on July 5, 2008 with a rain date of July 6, 2008.

(b) *Definition*: As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer, or any federal, state, or local law enforcement officer authorized to enforce this regulation on behalf of the Coast Guard Captain of the Port (COTP).

(c) *Regulations*. (1) In accordance with the general regulations in section 165.23 of this part, entry into or remaining in the safety zones described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port (COTP), Boston, or the COTP's designated representative.

(2) Persons desiring to transit within the safety zones established in this section may contact the Captain of the Port at telephone number 617-223-3008 or via on-scene patrol personnel on VHF channel 16 to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: May 21, 2008.

**Claudia C. Gelzer,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Boston.*

[FR Doc. E8-12479 Filed 6-3-08; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2008-0232; FRL-8363-9]

#### **Aldicarb, Ametryn, 2,4-DB, Dicamba, Dimethipin, Disulfoton, Diuron, et al.; Proposed Tolerance Actions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revoke certain tolerances for the insecticides/nematicides aldicarb, ethoprop, and oxamyl; the insecticides disulfoton, malathion, and methyl parathion; the miticide/acaricide propargite; the fungicides *o*-phenylphenol and its sodium salt, triadimefon, triadimenol, and ziram; the herbicides ametryn, dicamba, diuron, oxyfluorfen, and paraquat; the growth regulator/herbicide dimethipin; and the antimicrobial/insecticidal fumigant propylene oxide. Also, EPA is proposing to modify

certain tolerances for the insecticide/nematicide oxamyl; the insecticide fenitrothion; the miticide/acaricide propargite; the molluscicide metaldehyde; the fungicides triadimefon and tridemorph; the herbicides ametryn, 2,4-DB, dicamba, and diuron; and the antimicrobial/insecticidal fumigant propylene oxide. In addition, EPA is proposing to establish tolerances for the insecticide/nematicide oxamyl; the molluscicide metaldehyde; the fungicides etridiazole and streptomycin; the herbicides 2,4-DB, dicamba, and diuron; and the antimicrobial/insecticidal fumigant propylene oxide and propylene chlorohydrin (a reaction product formed during the propylene oxide sterilization process). Finally, because tolerances expired in 2005, EPA is proposing to remove 40 CFR 180.167 for nicotine-containing compounds. The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

**DATES:** Comments must be received on or before August 4, 2008.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0232, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2008-0232. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the docket index available in [www.regulations.gov](http://www.regulations.gov). To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [www.regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Joseph Nevola, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8037; e-mail address: [nevola.joseph@epa.gov](mailto:nevola.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

### C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f), if needed. The order would specify data needed and the timeframes for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## II. Background

### A. What Action is the Agency Taking?

EPA is proposing to revoke, modify, and establish specific tolerances for residues of the insecticides/nematicides aldicarb, ethoprop, and oxamyl; the insecticides disulfoton, fenitrothion, malathion, and methyl parathion; the

miticide/acaricide propargite; the molluscicide metaldehyde; the fungicides etridiazole, *o*-phenylphenol and its sodium salt, streptomycin, triadimefon, triadimenol, tridemorph, and ziram; the herbicides ametryn, 2,4-DB, dicamba, diuron, oxyfluorfen, and paraquat; the growth regulator/herbicide dimethipin; and the antimicrobial/insecticidal fumigant propylene oxide and its reaction product propylene chlorohydrin in or on commodities listed in the regulatory text. Also, because tolerances expired in 2005, the Agency is proposing to remove 40 CFR 180.167 for nicotine-containing compounds.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of "reasonable certainty of no harm" is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone number: 1-800-490-9198; fax number: 1-513-489-8695; Internet at <http://www.epa.gov/ncepihom> and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161, telephone number: 1-800-553-6847 or (703) 605-6000; Internet at <http://www.ntis.gov>. Electronic copies of REDs and TREDs are available on the Internet in public dockets for aldicarb (EPA-HQ-OPP-2005-0163), ametryn (EPA-HQ-OPP-2004-0411), 2,4-DB (EPA-HQ-OPP-2004-0220), dicamba (EPA-HQ-OPP-2005-0479), dimethipin (EPA-HQ-OPP-2004-0380), ethoprop (EPA-HQ-OPP-2002-0269), malathion (EPA-HQ-OPP-2004-0348), metaldehyde (EPA-HQ-OPP-2005-0231), methyl parathion (EPA-HQ-OPP-2003-0237), *o*-phenylphenol and its sodium salt (EPA-

HQ-OPP-2006-0154), oxyfluorfen (EPA-HQ-OPP-2002-0255), propylene oxide (EPA-HQ-OPP-2005-0253), triadimefon (EPA-HQ-OPP-2005-0258), ziram (EPA-HQ-OPP-2004-0194), and TREDs for diuron (EPA-HQ-OPP-2002-0249), streptomycin (EPA-HQ-OPP-2005-0493), triadimenol (EPA-HQ-OPP-2006-0038), and tridemorph (EPA-HQ-OPP-2005-0505) at <http://www.regulations.gov> and REDs for disulfoton, diuron, etridiazole, fenitrothion, oxamyl, paraquat, and propargite at <http://www.epa.gov/pesticides/reregistration/status.htm>.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

1. Lawful use (sometimes through a label change) may result in a higher residue level on the commodity.
2. The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance.

In REDs, Chapter IV on "Risk management, Reregistration, and Tolerance reassessment" typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and electronic copies for aldicarb, ametryn, 2,4-DB, dimethipin, diuron, ethoprop, malathion, metaldehyde, methyl parathion, *o*-phenylphenol and salts, propylene oxide, streptomycin,

triadimefon, triadimenol, and tridemorph can be found under their respective public docket ID numbers, identified in Unit II.A. Electronic copies for etridiazole, paraquat, and propargite can be found under public docket ID number EPA-HQ-OPP-2004-0154, oxyfluorfen under EPA-HQ-OPP-2007-0036, ziram under EPA-HQ-OPP-2005-0459, and residue documents for dicamba, fenitrothion, and oxamyl, are available in the public docket for this proposed rule. Electronic copies are available through EPA's electronic public docket and comment system, [www.regulations.gov](http://www.regulations.gov). You may search for docket ID number EPA-HQ-OPP-2008-0232, then click on that docket ID number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION**.

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or legally treated domestic commodities.

1. *Aldicarb*. Because sugarcane forage and sugarcane stover are no longer considered by the Agency to be significant livestock feed items as delineated in "Table 1. -Raw

Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996 (available at [http://www.epa.gov/opptsfrs/publications/OPPTS\\_Harmonized/860\\_Residue\\_Chemistry\\_Test\\_Guidelines/Series/](http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/)), EPA determined that the tolerances are no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.269 for the combined residues of aldicarb and its cholinesterase-inhibiting metabolites 2-methyl 2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime in or on sugarcane, forage and sugarcane, stover.

EPA is not proposing other tolerance actions for aldicarb at this time because of public comments received by the Agency to the aldicarb RED notice of availability, published in the **Federal Register** on October 12, 2007 (72 FR 58082)(FRL-8152-3). The Agency will review the comments and propose any appropriate tolerance actions in a future publication in the **Federal Register**.

2. *Ametryn*. Because pineapple, fodder; pineapple, forage; sugarcane, forage; and sugarcane, stover are no longer considered by the Agency to be significant livestock feed items as delineated in "Table 1.—Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996 (available at [http://www.epa.gov/opptsfrs/publications/OPPTS\\_Harmonized/860\\_Residue\\_Chemistry\\_Test\\_Guidelines/Series/](http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/)), EPA determined that these tolerances in 40 CFR 180.258 are no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.258 for residues of ametryn in or on pineapple, fodder; pineapple, forage; sugarcane, forage; and sugarcane, stover.

Because there are no active registrations for use of ametryn on taniens, yams, and cassava in the United States, EPA determined that the tolerances in 40 CFR 180.258(a) on taniens and yam, true, tuber and the regional tolerance in 40 CFR 180.258(c) on cassava, roots are no longer needed and therefore, should be revoked. Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.258(a) on taniens and yam, true, tuber and the regional tolerance in 40 CFR 180.258(c) on cassava, roots; and reserve section (c).

Based on available data showing ametryn residues as high as 0.10 ppm on field corn forage and <0.02 ppm on field corn grain and stover, EPA determined that the tolerance on corn, forage at 0.5 ppm should be revised to corn, sweet, forage at 0.5 ppm and corn, field, forage decreased from 0.5 to 0.1 ppm; the tolerance on corn, grain at 0.25 ppm should be revised to corn, field, grain and corn, pop, grain, and each decreased from 0.25 to 0.05 ppm; and the tolerance on corn, stover at 0.5 ppm should be revised to corn, sweet, stover at 0.5 ppm; corn, field, stover and corn, pop, stover, and both decreased from 0.5 to 0.05 ppm. Therefore, the Agency is proposing to decrease the tolerances in 40 CFR 180.258(a) on corn, field, forage to 0.1 ppm, corn, field, grain to 0.05 ppm; corn, pop, grain to 0.05 ppm; corn, field, stover to 0.05 ppm; and corn, pop, stover to 0.05 ppm, and maintain at 0.5 ppm the revised tolerances on corn, sweet, forage and corn, sweet, stover.

Based on available data showing ametryn residues as high as 0.05 ppm on pineapple and <0.02 ppm on sugarcane, EPA determined that the tolerances should each be decreased from 0.25 to 0.05 ppm. Therefore, the Agency is proposing to decrease the tolerances in 40 CFR 180.258(a) on pineapple and sugarcane, cane; each to 0.05 ppm.

Because the registrant has requested voluntary cancellation of an active registration with the last uses of ametryn for bananas and sweet corn (72 FR 71898, December 19, 2007) (FRL-8343-9), EPA expects to address these tolerances in a future notice in the **Federal Register**.

There are no Codex Maximum Residue Limits (MRLs) for ametryn.

3. *2,4-DB*. Currently, tolerances for 4-(2,4-dichlorophenoxy) butyric acid, known as 2,4-DB, in 40 CFR 180.331 exist for the combined residues of 2,4-DB and its metabolite 2,4-dichlorophenoxyacetic acid, known as 2,4-D. Based on plant and livestock metabolism data, the Agency determined (as described in the RED and Residue Chemistry Chapter) that residues of concern for plant and livestock commodities should be 2,4-DB per se because the metabolite 2,4-D is present only at low levels. Therefore, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.331 as follows:

Tolerances are established for the residues of the herbicide 4-(2,4-dichlorophenoxy) butyric acid (2,4-DB), both free and conjugated, determined as the acid, in or on food commodities as follows.

Based on available field trial data that showed 2,4-DB residues as high as 0.49 ppm in or on alfalfa forage and 1.7 ppm on alfalfa hay, EPA determined that the tolerance on alfalfa at 0.2 ppm should be divided into alfalfa forage and hay, increased to 0.7 ppm and 2.0 ppm, respectively, and that since the data could be translated to birdsfoot trefoil, the tolerance on birdsfoot trefoil at 0.2 ppm should be divided into trefoil forage and hay, and increased to 0.7 ppm and 2.0 ppm, respectively. Therefore, the Agency is proposing in 40 CFR 180.331 to revise the tolerance on alfalfa to alfalfa, forage and alfalfa, hay, and increase the tolerance on alfalfa, forage to 0.7 ppm and alfalfa, hay to 2.0 ppm, and revise the tolerance on trefoil, birdsfoot to trefoil, forage and trefoil, hay, and increase the tolerance on trefoil, forage to 0.7 ppm and trefoil, hay to 2.0 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on ruminant feeding data and Maximum Theoretical Dietary Burden (MTDB) for cattle, EPA determined that there is no reasonable expectation of finite residues of 2,4-DB residues in the milk or in the meat and fat of cattle, goats, hogs, horses, and sheep resulting from the feeding of 2,4-DB treated commodities. Therefore, tolerances on milk, and the fat and meat of livestock are not needed under 40 CFR 180.6(a)(3). However, based on that ruminant feeding data, which showed residues of 2,4-DB in or on kidney and liver were <0.05 ppm, the limit of quantitation (LOQ), the Agency determined that tolerances on the meat byproducts of cattle, goats, hogs, horses, and sheep should be established at 0.05 ppm. Therefore, EPA is proposing to establish tolerances in 40 CFR 180.331 on cattle, meat byproducts; goat, meat byproducts; hog, meat byproducts; horse, meat byproducts; and sheep, meat byproducts, each at 0.05 ppm.

Based on available field trial data that showed 2,4-DB residues as high as 0.45 ppm in or on soybeans at a Preharvest Interval (PHI) of at least 60 days, and 0.64 ppm in or on soybean forage at a PGI (pre-grazing interval) of at least 60 days, EPA determined that the tolerance on soybean should be increased from 0.2 to 0.5 ppm, and a tolerance on soybean forage should be established at 0.7 ppm. In addition, based on the tolerance recommended at 0.7 ppm for forage, feedstuff percent dry matter values of 35% and 85% for forage and hay, respectively, and a dry-down factor of 2.4X, EPA determined that the

tolerance on soybean hay should be increased from 0.2 to 2.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.331 to revise the tolerance on soybean to soybean, seed and increase the tolerance on soybean, seed to 0.5 ppm, increase the tolerance on soybean, hay to 2.0 ppm, and establish a tolerance on soybean, forage at 0.7 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Also, in 40 CFR 180.331, EPA is proposing to remove the "(N)" designation from all entries to conform to current Agency administrative practice, where the "(N)" designation means negligible residues. In addition, in 40 CFR 180.331, EPA is proposing to revise the commodity terminology for "mint, hay" to "peppermint, tops" and "spearmint, tops."

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.331 by adding separate paragraphs (b), (c), and (d), and reserving those sections for tolerances with section 18 emergency exemptions, regional registrations, and indirect or inadvertent residues, respectively.

At this time, EPA is not taking action to decrease the tolerance for 2,4-DB on peanut pending verification that registration amendments that specify a minimum 60-day PHI for use on peanuts are available for Agency approval.

There are no Codex MRLs for residues of 2,4-DB.

4. *Dicamba*. The tolerances in 40 CFR 180.227 for combined dicamba residues of concern in or on sugarcane forage and sugarcane stover should be revoked because the Agency considers these commodities to no longer be significant livestock feed items, and therefore their tolerances are no longer needed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.227(a)(1) for combined dicamba residues of concern in or on sugarcane, forage; and sugarcane, stover.

Based on available field trial data that showed dicamba residues of concern as high as 0.015 ppm in or on corn grain, the Agency determined that the tolerance on corn grain should be decreased from 0.5 to 0.1 ppm and revised to corn, field, grain and corn, pop, grain. Therefore, EPA is proposing in 40 CFR 180.227(a)(1) to decrease the tolerance on corn, grain to 0.1 ppm and revise the tolerance from corn grain to corn, field, grain and corn, pop, grain, each at 0.1 ppm.

Based on the translation of available data from wheat grain and straw that

showed dicamba residues of concern as high as 1.4 ppm and 26 ppm, respectively, EPA determined that the registrations for wheat, oat, millet proso, and rye should specify a maximum seasonal rate of 0.5 lb acid equivalents per acre (ae/A) for grain and straw, and a 7-day PHI for straw, and that the expected residues in or on the grains of oat, proso millet, and rye would each be as high as 1.4 ppm, and straws of oat, proso millet, and rye would each be as high as 26 ppm, and therefore the tolerances on oat grain and proso millet grain should each be increased from 0.5 to 2.0 ppm, tolerances on oat straw and proso millet straw should each be increased from 0.5 to 30.0 ppm, and tolerances on rye grain and rye straw should be established at 2.0 ppm and 30.0 ppm, respectively. Consequently, the Agency is proposing in 40 CFR 180.227(a)(1) to increase the tolerances on oat, grain to 2.0 ppm; millet, proso, grain to 2.0 ppm; oat, straw to 30.0 ppm, millet, proso, straw to 30.0 ppm, and establish tolerances on rye, grain at 2.0 ppm and rye, straw at 30.0 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available data from wheat forage and hay that showed dicamba residues of concern as high as 86 ppm (0-day PHI) and 34 ppm (14-day PHI), respectively, EPA determined that the registrations for wheat, oat, millet proso, and rye should specify a 14-day PHI for hay and tolerances on wheat forage and hay should be increased from 80.0 to 90.0 ppm and from 20.0 to 40.0 ppm, respectively. Also, based on the translation of the wheat data to oats, proso millet, and rye, the Agency expected residues in or on the forage of oat, proso millet, and rye would each be as high as 86 ppm (0-day PHI), and hay of oat and proso millet would each be as high as 34 ppm (14-day PHI), and therefore the tolerance on oat forage should be increased from 80.0 to 90.0 ppm and tolerances on the forage of proso millet and rye should each be established at 90.0 ppm, and the tolerance on oat hay should be increased from 20.0 to 40.0 ppm, and a tolerance on proso millet hay should be established at 40.0 ppm. Consequently, the Agency is proposing in 40 CFR 180.227(a)(1) to increase the tolerances on oat, forage and wheat, forage, each to 90.0 ppm; increase the tolerances on oat, hay and wheat, hay, each to 40.0 ppm; and establish tolerances on millet, proso, forage at 90.0 ppm, rye, forage at 90.0 ppm, and millet, proso, hay at 40.0

ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed dicamba residues of concern in or on sorghum grain as high as 3.16 ppm (30-day PHI) and sorghum stover as high as 4.29 ppm (30-day PHI), EPA determined that the registrations for sorghum grain and stover should specify a 30-day PHI and the tolerances on sorghum grain and sorghum stover should be increased from 3.0 to 4.0 ppm and from 3.0 to 10.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.227(a)(1) to increase the tolerances on sorghum, grain, grain to 4.0 ppm and sorghum, grain, stover to 10.0 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed dicamba residues of concern as high as 0.05 ppm in or on cottonseed and a combined LOQ of 0.1 ppm, the Agency determined that the tolerance on cottonseed should be decreased from 5.0 to 0.2 ppm. Also, the Agency calculated that the proposed tolerance level for cottonseed is greater than the highest average field trial (HAFT) multiplied by the concentration factor of 1.9x in meal, and determined that a separate tolerance for cotton meal is no longer needed, and therefore should be revoked. Consequently, EPA is proposing in 40 CFR 180.227(a)(1) to decrease the tolerance on cotton, undelinted seed to 0.2 ppm and revoke the tolerance on cotton, meal.

Based on available cattle exaggerated feeding data (about 2.1x MTDB) of dicamba that showed combined maximum dicamba residues of concern in fat at 0.511 ppm, 46.64 ppm in kidney, 5.06 ppm in liver, 0.392 ppm in muscle, <0.01 ppm in whole milk, and 0.165 ppm in cream, EPA calculated that the maximum expected residues in fat, kidney, liver, muscle, whole milk and cream at 1x MTDB to be 0.24 ppm, 22.2 ppm, 2.41 ppm, 0.19 ppm, <0.01 ppm and 0.09 ppm, respectively. Therefore, the Agency determined that the tolerances for the fat of cattle, goats, hogs, horses, and sheep should be increased from 0.2 to 0.3 ppm; the kidney of cattle, goats, hogs, horses, and sheep should be increased from 1.5 to 25.0 ppm; the liver of cattle, goats, hogs, horses, and sheep should be revoked because these separate tolerances are no longer needed since they will be covered by redefined meat byproduct tolerances of cattle, goats, hogs, horses,

and sheep that should be increased from 0.2 to 3.0 ppm and revised to meat byproducts, except kidney; the meat of cattle, goats, hogs, horses, and sheep should be increased from 0.2 to 0.25 ppm; and the tolerance on milk should be decreased from 0.3 to 0.2 ppm. Consequently, EPA is proposing in 40 CFR 180.227(a)(2) to increase the tolerances on cattle, fat; goat, fat; hog, fat; horse, fat; and sheep, fat, each to 0.3 ppm; on cattle, kidney; goat, kidney; hog, kidney; horse, kidney; and sheep, kidney, each to 25.0 ppm; revise the terminology and increase the tolerances on cattle, meat byproducts, except kidney; goat, meat byproducts, except kidney; hog, meat byproducts, except kidney; horse, meat byproducts, except kidney; and sheep, meat byproducts, except kidney, each to 3.0 ppm; increase the tolerances on cattle, meat; goat, meat; hog, meat; horse, meat; and sheep, meat, each to 0.25 ppm; decrease the tolerance on milk to 0.2 ppm; and revoke the separate tolerances on cattle, liver; goat, liver; hog, liver; horse, liver; and sheep, liver. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available processing data that showed combined dicamba residues of concern concentrated by a factor of 3.8x in soybean hulls (but did not concentrate in any of the other soybean processed fractions), and a HAFT combined residue level of 7.44 ppm, EPA expected residues of 28.3 ppm and determined that the tolerance on soybean, hulls should be increased from 13.0 to 30.0 ppm. Therefore, EPA is proposing in 40 CFR 180.227(a)(3) to increase the tolerance on soybean, hulls to 30.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available data on the aspirated grain fractions (also known as grain dusts) of sorghum, soybean, and wheat, where the highest processing factor found was 670x in soybean seed aspirated grain fractions, and average dicamba residues of concern at 1.36 ppm in or on soybean seed, EPA expected residues as high as 941 ppm and determined that the tolerance on aspirated fractions of grain should be decreased from 5,100 to 1,000 ppm. Therefore, EPA is proposing in 40 CFR 180.227(a)(3) to decrease the tolerance on grain, aspirated fractions to 1,000 ppm.

At this time, EPA is not taking the following actions for dicamba residues of concern: to increase tolerances on grass forage and hay pending verification of the status of one registration whose maximum rate may be above the 2.0 lb ae/A rate associated with the field trial data, to decrease the tolerance on sorghum forage pending verification that registration amendments that specify a maximum single/seasonal rate of 0.25 lb ae/A and 20-day PHI for sorghum forage are available for Agency approval, and to increase sugarcane molasses pending the Agency's receipt and approval of storage stability data. The Agency will take any appropriate tolerance actions for these commodities in a future publication in the **Federal Register**.

In addition, in 40 CFR 180.227(a)(1), EPA is proposing to revise the commodity terminology "sorghum, forage" to "sorghum, grain, forage" and revise the crop group 17 tolerance terminologies for "grass, forage" and "grass, hay" to "grass, forage, fodder and hay, group 17, forage" and "grass, forage, fodder and hay, group 17, hay." There are no Codex MRLs for dicamba.

5. *Dimethipin*. On April 11, 2007, EPA published a notice in the **Federal Register** (72 FR 18238) (FRL-8123-6) that announced the Agency's receipt of requests from the registrant to voluntarily cancel all dimethipin registrations and therefore terminate the last dimethipin uses in or on cotton. EPA approved cancellation of the registrations by issuing a letter as the final cancellation order with the close of the 30-day comment period, made them effective on May 31, 2007, and permitted the registrants for the canceled registrations to sell and distribute existing stocks for 24 months; i.e., until May 31, 2009. Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing dimethipin pesticide stocks on cotton until exhaustion. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated cotton commodities to have cleared the channels of trade by May 31, 2010. While dimethipin-treated cotton seed, meal, and gin-byproducts may be part of the diet of livestock, termination of dimethipin uses on cotton means that remaining livestock tolerances are no longer needed and should be revoked. In addition, while the Agency previously retained meat and meat byproducts tolerances to harmonize with Codex MRLs (72 FR 52013,

September 12, 2007)(FRL-8142-2), it had already determined from feeding data that there is no expectation of finite residues of dimethipin in the fat, meat, or meat byproducts of cattle, goats, horses, hogs, and sheep. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.406 on cotton, undelinted seed; cattle, meat; cattle, meat byproducts; goat, meat; goat, meat byproducts; hog, meat; hog, meat byproducts; horse, meat; horse, meat byproducts; sheep, meat; and sheep, meat byproducts, each with an expiration/revocation date of May 31, 2010.

6. *Disulfoton*. Because there have been no active registrations for disulfoton, *O,O*-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate, use on dry beans, sorghum, and soybeans since February 2002, and on sugarcane since 1991, EPA determined that the tolerances on dry beans, sorghum, soybeans, and sugarcane are no longer needed and should be revoked. Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.183(a) on bean, dry, seed; sorghum, forage; sorghum, grain, grain; sorghum, grain, stover; soybean; soybean, forage; soybean, hay; and sugarcane, cane.

Also, because the tolerances expired on December 9, 2003, EPA is proposing to remove the entries for corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, forage; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover; oat, grain; oat, hay; oat, straw; and pecan from 40 CFR 180.183(a).

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice as follows: in 40 CFR 180.183(a), "pea" to "pea, dry, seed," and "pea, succulent."

There are Codex MRLs for combined residues of disulfoton, demeton-S, and their sulphoxides and sulphones on a number of commodities, including MRLs on dry beans, oats, oat straw, and pecans.

7. *Diuron*. Currently, tolerances for diuron, 3-(3,4-dichlorophenyl)-1,1-dimethylurea, in 40 CFR 180.106(a)(1) are established for residues of diuron per se and in § 180.106(a)(2) are established for combined residues of diuron and its metabolites convertible to 3,4-dichloroaniline. Based on plant and animal metabolism data, the Agency had determined that residues of concern for plant and livestock commodities should include metabolites hydrolysable to 3,4-dichloroaniline. Therefore, EPA is proposing to remove § 180.106(a)(2) and combine the tolerances there with those in

§ 180.106(a)(1), under newly recodified § 180.106(a), and revise the introductory text containing the tolerance expression in newly recodified 40 CFR 180.106(a), as follows:

Tolerances are established for the combined residues of the herbicide diuron, 3-(3,4-dichlorophenyl)-1,1-dimethylurea, and its metabolites convertible to 3,4-dichloroaniline in or on food commodities as follows.

Also, as a result of combining tolerances in § 180.106(a)(1) and (a)(2) under newly recodified § 180.106(a), there will be two tolerances on peppermint tops, one at 1.5 ppm and the other at 2 ppm. Based on available field trial data that showed diuron residues of concern as high as 1.3 ppm in or on peppermint tops, the Agency determined that the appropriate tolerance is 1.5 ppm, and the tolerance on peppermint tops at 2 ppm is no longer needed, and therefore should be revoked. Consequently, while EPA is proposing to revoke the tolerance in 40 CFR 180.106(a)(1) on peppermint, tops at 2 ppm, it will maintain the tolerance on peppermint, tops at 1.5 ppm.

Because vetch seed is no longer considered by the Agency to be a significant livestock feed item as delineated in "Table 1.—Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996 (available at [http://www.epa.gov/opptsfrs/publications/OPPTS\\_Harmonized/860\\_Residue\\_Chemistry\\_Test\\_Guidelines/Series/](http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/)), EPA determined that the tolerance is no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerance in 40 CFR 180.106(a)(1) on vetch, seed.

Because there are no active registrations for diuron use on potatoes and rye, the Agency determined that the tolerances on potato; rye, forage; rye, grain; and rye, straw are no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.106(a)(1) on potato; rye, forage; rye, grain; and rye, straw.

Because there are no active registrations for diuron use on sweet corn, the Agency determined that the tolerances on sweet corn forage and stover are no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.106(a)(1) on corn, sweet, forage and corn, sweet, stover. Also, the tolerance on corn in grain or ear form (including sweet corn, field corn, popcorn) should be revised to corn, field, grain and corn,

pop, grain. Based on available field trial data that showed diuron residues of concern as high as <0.1 ppm in or on field corn grain and translating that data to support use of diuron on popcorn grain, the Agency determined that the tolerances on field corn and popcorn grain should each be set at 0.1 ppm. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.106(a)(1) on corn in grain or ear form (including sweet corn, field corn, popcorn) and establish separate tolerances on corn, field, grain; and corn, pop, grain; each at 0.1 ppm.

Based on available field trial data that showed diuron residues of concern as high as 2.58 ppm in or on alfalfa forage, EPA determined that the tolerance on alfalfa should be divided into alfalfa forage and alfalfa hay and the tolerance on alfalfa forage should be increased from 2.0 to 3.0 ppm. Therefore, the Agency is proposing in recodified 40 CFR 180.106(a) to revise the nomenclature for alfalfa to read alfalfa, forage and alfalfa, hay and to increase the tolerance on alfalfa, forage to 3.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed diuron residues of concern as high as 0.07 ppm in or on apple, 0.18 ppm in or on cottonseed, <0.03 ppm in or on grapes, 0.065 ppm in or on pineapple, 0.1 ppm in or on field pea seed, 0.33 ppm in or on grain sorghum, 0.20 ppm in or on sugarcane, 0.29 ppm in or on wheat grain, and 1.17 ppm in or on wheat straw, EPA determined that the tolerances on apple, cottonseed, grape, pineapple, field pea seed, grain sorghum, sugarcane, wheat grain, and wheat straw should be decreased from 1.0 to 0.1 ppm, 1.0 to 0.2 ppm, 1.0 to 0.05 ppm, 1.0 to 0.1 ppm, 1.0 to 0.1 ppm, 1.0 to 0.5 ppm, 1.0 to 0.2 ppm, 1.0 to 0.5 ppm, and 2.0 to 1.5 ppm, respectively. Therefore, the Agency is proposing in recodified 40 CFR 180.106(a) to decrease the tolerances on apple to 0.1 ppm, cotton, undelinted seed to 0.2 ppm, grape to 0.05 ppm, pineapple to 0.1 ppm, pea to 0.1 ppm and revise the tolerance nomenclature for pea to pea, field, seed; sorghum, grain, grain to 0.5 ppm; sugarcane, cane to 0.2 ppm, wheat, grain to 0.5 ppm, and wheat, straw to 1.5 ppm.

Based on active registrations for use of diuron on barley restricted to western OR and western WA and available field trial data that showed diuron residues of concern as high as 0.15 ppm in or on barley grain and the translation of wheat straw data to barley straw, EPA

determined that the tolerances on barley grain and hay should be recodified from 40 CFR 180.106(a)(1) to 40 CFR 180.106(c) as regional tolerances and the tolerance on barley grain be decreased from 1.0 to 0.2 ppm, and a tolerance should be established for barley straw at 1.5 ppm. Therefore, the Agency is proposing to recodify the tolerances on barley, grain and barley, hay currently in 40 CFR 180.106(a)(1) to 40 CFR 180.106(c) and decrease the tolerance on barley, grain to 0.2 ppm, and establish a tolerance in 40 CFR 180.106(c) on barley, straw at 1.5 ppm.

Based on available processing data that showed an average concentration factor of 17x for wheat grain aspirated grain fractions and 2.3x for wheat bran, a HAF value of 0.29 ppm for wheat, and translation of wheat bran data to support barley bran, EPA determined that the expected combined diuron residues of concern in wheat grain aspirated fractions are 4.9 ppm and wheat bran are 0.67 ppm, which are both greater than the reassessed tolerance for wheat grain of 0.5 ppm, and barley, grain of 0.2 ppm and therefore tolerances should be established for aspirated grain fractions at 5.0 ppm, wheat bran at 0.7 ppm, and barley bran at 0.7 ppm. Consequently, EPA is proposing to establish tolerances in recodified 40 CFR 180.106(a) for grain, aspirated fractions at 5.0 ppm and wheat, bran at 0.7 ppm, and in 40 CFR 180.106(c) for barley, bran at 0.7 ppm.

Based on active registrations for use of diuron on clover restricted to western OR and available field trial data that showed diuron residues of concern as high as 0.07 ppm in or on clover forage and 0.7 ppm in or on clover hay, EPA determined that the tolerances on clover forage and hay should be recodified from 40 CFR 180.106(a)(1) to 40 CFR 180.106(c) as regional tolerances and the tolerances on clover forage and hay be decreased from 2.0 to 0.1 ppm and 1.0 ppm, respectively. Therefore, the Agency is proposing in 40 CFR 180.106(a)(1) to recodify the tolerances on clover, forage and clover, hay to 40 CFR 180.106(c) and decrease the tolerance on clover, forage to 0.1 ppm and clover, hay to 1.0 ppm.

Based on active registrations for use of diuron on oats restricted to ID, OR and WA and available field trial data that showed diuron residues of concern as high as <0.1 ppm in or on oat grain and translation of wheat straw data (residues as high as 1.17 ppm) to oat straw, EPA determined that the tolerances on oat forage, grain, hay, and straw should be recodified from 40 CFR 180.106(a)(1) to 40 CFR 180.106(c) as regional tolerances and the tolerances on oat grain and

straw be decreased from 1.0 to 0.1 ppm and 2.0 to 1.5 ppm, respectively. Therefore, the Agency is proposing in 40 CFR 180.106(a)(1) to recodify the tolerances on oat, forage; oat, grain; oat, hay; and oat, straw to 40 CFR 180.106(c) and decrease the tolerances on oat, grain to 0.1 ppm and oat, straw to 1.5 ppm.

Based on active registrations for use of diuron on trefoil restricted to western OR, available field trial data that showed diuron residues of concern as high as 1.3 ppm in or on trefoil hay, and translation of clover forage (residues as high as 0.07 ppm) data to support trefoil forage, EPA determined that the tolerances on trefoil forage and hay should be recodified from 40 CFR 180.106(a)(1) to 40 CFR 180.106(c) as regional tolerances and decreased from 2.0 to 0.1 ppm for forage and 2.0 to 1.5 ppm for hay. Therefore, the Agency is proposing in 40 CFR 180.106(a)(1) to recodify the tolerances on trefoil, forage and trefoil, hay to 40 CFR 180.106(c) and decrease them to 0.1 ppm and 1.5 ppm, respectively.

Based on active registrations for use of diuron on vetch restricted to ID, OR and WA and translation of clover forage and hay data (residues as high as 0.07 ppm and 0.7 ppm, respectively) to vetch forage and hay, EPA determined that the tolerances on vetch forage and hay should be recodified from 40 CFR 180.106(a)(1) to 40 CFR 180.106(c) as regional tolerances and the tolerances on vetch forage and hay be decreased from 2.0 to 0.1 ppm and 2.0 to 1.5 ppm, respectively. Therefore, the Agency is proposing in 40 CFR 180.106(a)(1) to recodify the tolerances on vetch, forage and vetch, hay to 40 CFR 180.106(c) and decrease them to 0.1 ppm and 1.5 ppm, respectively.

Because acceptable field trial data are available for the representative commodities of the berry crop group (blackberry, blueberry, and raspberry), and data for blackberries and raspberries may be translated to support use on loganberries, and data for blueberries may be translated to support use on gooseberries, EPA determined that a crop group tolerance should be established concomitant with the removal of individual berry tolerances. Also, based on data that showed diuron residues of concern as high as <0.1 ppm on blackberries and raspberries, the Agency determined that the group tolerance should be decreased from the level of the individual tolerances; i.e., from 1.0 to 0.1 ppm. Therefore, the Agency is proposing to revoke the individual tolerances on blackberry, blueberry, boysenberry, currant, dewberry, gooseberry, huckleberry, loganberry, and raspberry in 40 CFR

180.106(a)(1) and establish a tolerance on berry group 13 at 0.1 ppm in recodified 40 CFR 180.106(a).

Based on available field trial data that showed diuron residues of concern in or on grapefruit and oranges below the limit of quantitation (LOQ) of 0.0345 ppm and in or on lemons as high as 0.33 ppm, EPA determined that the citrus fruit tolerance should be revised to fruit, citrus, group 10, except lemon and decreased from 1.0 to 0.05 ppm, and a separate tolerance on lemon should be established at 0.5 ppm. Therefore, the Agency is proposing in recodified 40 CFR 180.106(a) to revise the tolerance on fruit, citrus to fruit, citrus, group 10, except lemon and decrease it to 0.05 ppm, and establish a tolerance on lemon at 0.5 ppm.

In addition, based on available processing data that showed average concentration factors of 1.9x for citrus dried pulp and 10.5x for citrus oil, and the HAFT value for lemons (0.27 ppm), EPA determined that the expected combined diuron residues of concern in citrus dried pulp and citrus oil are 0.51 ppm and 2.8 ppm, respectively. Because the expected residues in citrus dried pulp are approximately the same as the reassessed tolerance for lemons, the Agency determined that a tolerance for citrus dried pulp is no longer needed and therefore should be revoked, and a tolerance for citrus oil should be established at 3.0 ppm. Therefore, EPA is proposing in 40 CFR 180.106(a)(1) to revoke the tolerance on citrus, dried pulp and establish a tolerance on citrus, oil at 3.0 ppm in recodified 40 CFR 180.106(a).

Based on available processing data that showed an average concentration factor of 4.7x for pineapple pulp, and a HAFT value of 0.065 ppm for pineapple, EPA determined that the expected combined diuron residues of concern in pineapple process residue are 0.31 ppm, which is greater than the reassessed tolerance for pineapple of 0.1 ppm, and therefore a tolerance should be established for pineapple process residue at 0.4 ppm. Consequently, EPA is proposing to establish a tolerance in recodified 40 CFR 180.106(a) for pineapple, process residue at 0.4 ppm.

Based on available processing data that showed an average concentration factor of 3.27x for blackstrap molasses, and a HAFT value of 0.2 ppm for sugarcane, EPA determined that the expected combined diuron residues of concern in sugarcane molasses are 0.654 ppm, which is greater than the reassessed tolerance for sugarcane of 0.20 ppm, and therefore a tolerance should be established for sugarcane molasses at 0.7 ppm. Consequently, EPA

is proposing to establish a tolerance in recodified 40 CFR 180.106(a) for sugarcane, molasses at 0.7 ppm.

Because adequate field trial data are not available for almonds, which is a representative commodity of the nut, tree, group 14, and based on available field trial data that showed diuron residues of concern in or on macadamia nuts, pecans, and walnuts were each <0.05 ppm, EPA determined that the nut group tolerance at 0.1 ppm should be revoked concomitant with the establishment of separate tolerances for hazelnuts (filberts) at 0.1 ppm, and macadamia nuts, pecans, and walnuts, each at 0.05 ppm. Consequently, after the nut group tolerance is revoked, diuron use on almonds, beech nuts, butternuts, Brazil nuts, cashews, chestnuts, and hickory nuts will no longer be covered. In the near future, the Agency is expecting to receive data, including crop field trial data on hazelnuts (filberts), from the registrants based on their responses to a Data Call-In, and if needed will address the hazelnut tolerance again in a future notice in the **Federal Register**. Therefore, the Agency is proposing in 40 CFR 180.106(a)(1) to revoke the tolerance on nut and establish tolerances on hazelnut at 0.1 ppm, and nut, macadamia; pecan; and walnut; each at 0.05 ppm in recodified 40 CFR 180.106(a).

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice in recodified 40 CFR 180.106(a) as follows: "grass crops (other than Bermuda grass)" to "grass, forage, except bermudagrass;" "grass, hay (other than Bermuda grass)" to "grass, hay, except bermudagrass;" and "sorghum, forage" to "sorghum, grain, forage."

After active registrations are amended to restrict use of diuron on bananas to those grown in Hawaii, EPA expects to make it a regional tolerance and decrease the tolerance based on available field trial data. However, EPA is still in the process of addressing those active registrations. Therefore, the Agency will not propose to take action on the tolerance for diuron residues of concern on banana in 40 CFR 180.106 at this time, but will address it in a future publication in the **Federal Register**.

There are no Codex MRLs for diuron.

8. *Ethoprop*. Because there have been no active registrations for ethoprop use on peanuts since April 2002, EPA determined that the tolerances on peanut and peanut hay are no longer needed and should be revoked. Consequently, the Agency is proposing

to revoke the tolerances in 40 CFR 180.262(a) on peanut and peanut, hay.

9. *Etridiazole*. Etridiazole, 5-ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole, is registered for use on peanuts as a seed treatment. In a final rule published in the **Federal Register** on August 1, 2007 (72 FR 41913) (FRL-8139-5), the Agency announced that a tolerance should be established on peanut hay for etridiazole. Based on available metabolism data that showed residues of etridiazole per se were non-detectable and the monoacid metabolite showed residues as high as 0.033 ppm in or on cotton, soybean, and wheat grown from seed, the Agency determined that the combined residues of concern for etridiazole in or on commodities grown from etridiazole treated seed would not be expected to exceed 0.04 ppm, and therefore a tolerance on peanut hay should be established at the combined LOQ (0.1 ppm). Consequently, EPA is proposing to establish a tolerance for residues of etridiazole and its monoacid metabolite, 3-carboxy-5-ethoxy-1,2,4-thiadiazole, in 40 CFR 180.370(a) on peanut, hay at 0.1 ppm. For a detailed discussion of the Agency's rationale on the establishment of the peanut hay tolerance, refer to the final rule published in the **Federal Register** of August 1, 2007.

There are no Codex MRLs for etridiazole.

10. *Fenitrothion*. Currently, a tolerance for fenitrothion in 40 CFR 180.540(a) is established for combined residues of fenitrothion, *O,O*-dimethyl *O*-(4-nitro-tolyl) phosphorothioate and its metabolites, *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphate and 3-methyl-4-nitrophenol. Based on available field trial data, EPA determined that finite residues of the metabolite *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphate are not expected in or on wheat grain or in wheat gluten resulting from the postharvest use of fenitrothion on stored wheat in Australia, and therefore that metabolite no longer needs to be included in the tolerance expression. Also, because the metabolite 3-methyl-4-nitrophenol is not determined to be a cholinesterase-inhibiting metabolite, the Agency determined that the metabolite 3-methyl-4-nitrophenol no longer needs to be included in the tolerance expression. Consequently, the Agency determined that residues of concern for enforcement purposes should include only the parent compound. Therefore, EPA is proposing to revise the tolerance expression in 40 CFR 180.540(a) as follows:

A tolerance is established for residues of the insecticide fenitrothion, *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl)

phosphorothioate, from the postharvest application of the insecticide to stored wheat in Australia, in or on the following food commodity.

Based on available Australian field trial data that showed fenitrothion residues as high as 2.5 ppm in or on wheat gluten, EPA determined that the tolerance on wheat gluten should be decreased from 30 to 3 ppm. Therefore, the Agency is proposing in 40 CFR 180.540(a) to decrease the tolerance on wheat gluten to 3.0 ppm.

11. *Malathion*. Flax straw, lespedeza seed and straw, and vetch seed and straw are no longer considered by the Agency to be significant animal feed items as delineated in "Table 1.—Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996, available at [http://www.epa.gov/opptsfrs/publications/OPPTS\\_Harmonized/860\\_Residue\\_Chemistry\\_Test\\_Guidelines/Series](http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series), EPA determined that the tolerances are no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.111(a)(1) on flax, straw; lespedeza, seed; lespedeza, straw; vetch, seed; and vetch, straw.

There are no Codex MRLs for malathion on the commodities mentioned above.

12. *Metaldehyde*. The Agency has conducted human health and ecological risk assessments based on its review of the database supporting the uses of metaldehyde. The toxicological profile and endpoints, exposure assessment, FQPA Safety Factor, aggregate exposure and risk, and cumulative risk are discussed in the metaldehyde RED and HED Chapter of the RED, which are both available, along with related supporting documents, in the docket associated with metaldehyde as identified in Unit II.A. The dietary exposure assessment for metaldehyde is available in the docket of this proposed rule.

The dietary risk assessment is a function of both exposure and toxicity. In the case of metaldehyde, dietary risk is expressed as a percentage of a level of concern. The level of concern is the dose predicted to result in no unreasonable adverse health effects to any human population subgroup, including sensitive members of such population subgroups. This level of concern is referred to as the population adjusted dose (PAD). Risk estimates less than 100% of the PAD are below EPA's level of concern. The acute PAD (aPAD) is the highest predicted dose to which a person could be exposed on any given

day with no adverse health effect expected. The chronic PAD (cPAD) is the highest predicted dose to which a person could be exposed over the course of a lifetime with no adverse health effects expected. There are no dietary risks of concern for metaldehyde. For the general population and all subpopulations, acute dietary risk estimates are below 100% of the aPAD and chronic dietary risk estimates are below 100% of the cPAD. Dietary risk estimates are provided for the general U.S. population and various population subgroups. This assessment showed that at the 95th percentile of exposure, the acute risk estimates are below the Agency's level of concern (<100% of the aPAD) for the general U.S. population (11% of the aPAD) and all population subgroups (<25% of the aPAD). The highest exposed population subgroup was children 1 to 2 years old. Tolerance level residues and 100% crop treated (PCT) were also used to determine the chronic dietary exposure and risk estimates. This assessment showed that for all included commodities, the chronic risk estimates were below the Agency's level of concern (<100% of the cPAD) for the general U.S. population (22% of the cPAD) and all population subgroups (<49% cPAD). The highest exposed population subgroup was children 1 to 2 years old. Aggregated risks from dietary and residential exposures are below the Agency's levels of concern.

The Agency has reassessed the one existing tolerance for metaldehyde, and found a reasonable certainty of no harm to the U.S. population and all population subgroups from the use of metaldehyde. Prior to the RED, in the **Federal Register** of April 26, 2006 (71 FR 24692)(FRL-8062-5), EPA published a notice of filing of a pesticide petition submitted by a registrant for the establishment of a regulation for residues of metaldehyde in or on various food commodities, including representatives for the brassica (cole) leafy crop group, citrus crop group, lettuce, tomato, and strawberries. In the July 2006 RED and April 2006 HED Chapter of the RED, the Agency identified new tolerances (whose uses as well as strawberry were included in the dietary risk assessment) that are needed for metaldehyde, including ones for commodities mentioned in the notice of April 2006. The Interregional Research Project Number 4 (IR-4) program of the U.S. Department of Agriculture, which develops residue data for minor and specialty crops, has done research on a number of additional uses for metaldehyde. In the **Federal**

**Register** of January 23, 2008 (73 FR 3964)(FRL-8345-7), EPA published a notice of filing of a number of pesticide petitions including one submitted by IR-4 for the establishment of a regulation for residues of metaldehyde in or on various food commodities, including representatives for the berry crop group, artichoke, and prickly pear cactus.

Currently, in 40 CFR 180.523, there are prescribed conditions in the introductory text and in paragraphs (a)(1), (2), and (3). Because the Agency now believes that all treatment parameters should be on the label only, the tolerance expression in 40 CFR 180.523 which states that "metaldehyde may be safely used as a preharvest spray or dust on strawberry to control slugs and snails, in accordance with the following prescribed conditions" should be modified by removing the prescribed conditions while continuing to limit the tolerance to use on strawberries. Therefore, EPA is proposing to revise the tolerance expression in 40 CFR 180.523(a) as follows:

Tolerances are established for residues of the molluscicide metaldehyde in or on food commodities, as follows.

In addition, the Agency believes that 40 CFR 180.523(a)(1), (2), and (3) should be removed because all treatment parameters should be on the label only. Therefore, in 40 CFR 180.523, EPA is proposing to delete current paragraphs (a)(1), (2), and (3), and replace them with a new paragraph (a) and include a table for the tolerances described below.

Based on available field trial data that showed metaldehyde residues as high as 2.42 ppm in or on strawberries, EPA determined that the existing tolerance on strawberry should be increased from 0 to 6.25 ppm. Therefore, the Agency is proposing in 40 CFR 180.523(a) to increase the tolerance on strawberry to 6.25 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed metaldehyde residues in or on lemons below the limit of quantitation (LOQ) of 0.05 ppm, grapefruit as high as 0.081 ppm and oranges as high as 0.103 ppm, EPA determined that a tolerance on the citrus fruit crop group should be established at 0.26 ppm. Consequently, the Agency is proposing in 40 CFR 180.523(a) to establish a tolerance on fruit, citrus, group 10 at 0.26 ppm.

Based on available field trial data that showed metaldehyde residues in or on head lettuce as high as 0.09 ppm and leaf lettuce as high as 0.691 ppm, EPA determined that a tolerance on lettuce

should be established at 1.73 ppm. Therefore, the Agency is proposing in 40 CFR 180.523(a) to establish a tolerance on lettuce at 1.73 ppm.

Based on available field trial data that showed metaldehyde residues in or on tomato as high as 0.096 ppm, artichokes below the LOQ of 0.05 ppm, and watercress as high as 1.28 ppm, EPA determined that tolerances on tomato, artichokes, and watercress should be established at 0.24 ppm, 0.07 ppm, and 3.2 ppm, respectively. Consequently, the Agency is proposing in 40 CFR 180.523(a) to establish tolerances on tomato at 0.24 ppm; artichoke, globe at 0.07 ppm; and watercress at 3.2 ppm.

Based on available field trial data that showed metaldehyde residues in or on mustard greens, cabbage, and broccoli as high as 0.561 ppm, 0.59 ppm, and 1.0 ppm, respectively, EPA determined that a tolerance on the brassica (cole) leafy crop group should be established at 2.5 ppm. Therefore, the Agency is proposing in 40 CFR 180.523(a) to establish a tolerance on vegetable, brassica, leafy, group 5 at 2.5 ppm.

Based on available field trial data that showed metaldehyde residues in or on cactus fruit were below the LOQ of 0.05 ppm and cactus pads (three of four samples were below the LOQ) with one sample at 0.05 ppm, EPA determined that a tolerance on cactus should be established at 0.07 ppm. Therefore, the Agency is proposing in 40 CFR 180.523(a) to establish a tolerance on cactus at 0.07 ppm.

Based on available field trial data that showed metaldehyde residues in or on blueberries below the LOQ of 0.05 ppm and raspberries as high as 0.06 ppm, EPA determined that a tolerance on the berries crop group should be established at 0.15 ppm. Therefore, the Agency is proposing in 40 CFR 180.523(a) to establish a tolerance on berry group 13 at 0.15 ppm.

There are no Codex MRLs for metaldehyde.

13. *Methyl parathion*. In the **Federal Register** notice of November 7, 2007 (72 FR 62850) (FRL-8155-9), EPA issued a notice regarding EPA's announcement on the receipt of requests from registrants to voluntarily cancel and/or amend certain registrations for methyl parathion and delete the last cabbage, hops, lentils, pecans, dried bean, dried peas, and sugar beet uses from methyl parathion registrations. EPA approved the use deletions, including the last uses for methyl parathion on cabbage, hops, lentils, pecans, dried beans, dried peas, and sugar beets with the close of the 30-day comment period, made them effective on January 24, 2008, and permitted persons other than the

registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing methyl parathion pesticide stocks on cabbage, hops, lentils, pecans, dried beans, dried peas, and sugar beets until exhaustion. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated cabbage, hops, lentils, pecans, dried beans, dried peas, and sugar beet commodities to have cleared the channels of trade by January 24, 2009. (Note, the use of methyl parathion on lentils is currently covered by the tolerance in 40 CFR 180.121 on pea, dry, seed according to 40 CFR 180.1(g)). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.121(a) on cabbage; hop; pecan; bean, dry, seed; pea, dry, seed; beet, sugar, roots; and beet, sugar, tops; each with an expiration/revocation date of January 24, 2009.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice as follows: in 40 CFR 180.121(a), "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "hop" to "hop, dried cones;" and "soybean" to "soybean, seed."

There are Codex MRLs for residues of parathion-methyl on a number of commodities, including dry beans, dry peas, and sugar beets.

14. *Nicotine-containing compounds*. Because the tolerances expired on December 4, 2005, EPA is proposing to remove 40 CFR 180.167 in its entirety.

15. *Ortho-phenylphenol and Sodium ortho-phenylphenate*. Currently, there are active U.S. registrations for use of sodium ortho-phenylphenate (sodium *o*-phenylphenate) on citrus (which includes use on grapefruit, kumquat, lime, and tangerine). Because the existing tolerance in 40 CFR 180.129 on citrus at 10 ppm includes coverage of combined residues of *o*-phenylphenol and sodium *o*-phenylphenate on grapefruit, kumquat, lime, and tangerine, the Agency determined that their separate tolerances (each at 10 ppm) are no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the individual tolerances in 40 CFR 180.129 on grapefruit, kumquat, lime, and tangerine.

Because there are no active U.S. registrations for use of either *o*-phenylphenol or sodium *o*-phenylphenate on melon, citron and kiwifruit, since 1988 and 1993, respectively, the Agency determined that their tolerances are no longer needed, and therefore should be revoked. Consequently, EPA is

proposing to revoke the tolerances in 40 CFR 180.129 on citron and kiwifruit.

Also, in accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.129 by designating general tolerances as paragraph (a), adding separate paragraphs (b), (c), and (d), and reserving those sections for tolerances with section 18 emergency exemptions, regional registrations, and indirect or inadvertent residues, respectively, and to revise commodity terminology to conform to current Agency practice in 40 CFR 180.129(a) for "citrus" to "citrus fruits," and "orange, sweet" to "orange."

There are Codex MRLs for ortho-phenylphenol or its sodium salt.

16. *Oxamyl*. Based on available processing data that showed combined residues of oxamyl and its oxime metabolite methyl *N,N*-dimethyl-*N*-hydroxy-1-thiooxamimidate calculated as oxamyl concentrated by a factor of 1.8x (where combined residues in or on treated pineapple and pineapple wet skins were as high as 0.1 ppm and 0.18 ppm, respectively), EPA expected residues of 1.8 ppm, and the Agency determined that the tolerance on pineapple, bran should be decreased from 6.0 to 2.0 ppm. Further, the current tolerance expression in 40 CFR 180.303(a)(2) is for residues of oxamyl per se. However, the processing data reflects the combined residues of oxamyl and its metabolite and therefore the Agency determined that the tolerance expression under § 180.303(a)(2) was no longer needed and the tolerance there should be moved under the current tolerance expression for § 180.303(a)(1), along with the correct "methyl" name for the metabolite. Therefore, EPA is proposing to recodify 40 CFR 180.303(a)(1) to (a), move the tolerance on pineapple, bran from 40 CFR 180.303(a)(2) to (a), decrease the tolerance on pineapple, bran to 2.0 ppm, revise the tolerance nomenclature from "pineapple, bran" to "pineapple, process residue," and correct the oxamyl metabolite name in § 180.303(a) to methyl *N,N*-dimethyl-*N*-hydroxy-1-thiooxamimidate.

Because the commodity tolerance terminology in 40 CFR 180.303(a) for "vegetable, root" at 0.1 ppm is an obsolete crop group (which also covers such commodities as carrot, bulb onion, bulb garlic, and potato) and many commodities formerly associated with it no longer have active registrations, the Agency determined that it should be revoked concomitantly with the establishment of a subgroup tolerance on vegetable, tuberous and corm, subgroup 1C at 0.1 ppm, an individual tolerance for carrot at 0.1 ppm, and

based on available data showing oxamyl residues of concern on bulb onion as high as 0.18 ppm with a 14-day PHI and translation of bulb onion data to bulb garlic (with a 14-day PHI), individual tolerances on onion, bulb and garlic, bulb, each at 0.2 ppm. Therefore, EPA is proposing in newly recodified 40 CFR 180.303(a) to revoke the tolerance on vegetable, root and establish tolerances on vegetable, tuberous and corm, subgroup 1C at 0.1 ppm; carrot at 0.1 ppm; onion, bulb at 0.2 ppm; and garlic, bulb at 0.2 ppm. Also, because the subgroup 1C includes potato, the Agency determined that the existing individual tolerance on potato at 0.1 ppm is no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerance in newly recodified 40 CFR 180.303(a) on potato.

Based on available field trial data that showed combined oxamyl residues of concern in or on peanut nutmeat as high as 0.12 ppm when oxamyl was applied up to 2.2x the maximum rate per application, and a current Codex MRL for combined oxamyl residues in or on peanuts at 0.05 mg/kg (at the time of the RED the MRL was 0.1 mg/kg), the Agency calculated that at 1x the application rate the combined oxamyl residues of concern on peanut nutmeat are expected at 0.05 ppm and therefore, determined that the tolerance should be decreased from 0.2 to 0.05 ppm (which is less than the 0.1 ppm recommended in the RED due to a Codex MRL level of 0.1 mg/kg at that time) to harmonize with Codex as the dietary exposure and risk are not of concern. Therefore, EPA is proposing to decrease the tolerance in newly recodified 40 CFR 180.303(a) on peanut to 0.05 ppm.

Based on available field trial data that showed combined oxamyl residues of concern in or on bell peppers do not exceed 2.0 ppm, and a current Codex MRL for combined oxamyl residues in or on sweet peppers at 2.0 mg/kg, the Agency determined that the tolerance should be decreased from 3.0 to 2.0 ppm to harmonize with Codex as the dietary exposure and risk are not of concern. Therefore, EPA is proposing to decrease the tolerance in newly recodified 40 CFR 180.303(a) on pepper, bell to 2.0 ppm.

Based on available field trial data that showed combined oxamyl residues of concern as high as 0.058 ppm in or on soybeans and <0.2 ppm in or on winter squash, the Agency determined that the tolerances should be decreased from 0.2 to 0.1 ppm and 2.0 to 0.2 ppm, respectively, and that because the winter squash data could be translated to pumpkins based on similar use

patterns, the tolerance on pumpkin should be decreased from 2.0 to 0.2 ppm. Therefore, EPA is proposing to decrease the tolerances in newly recodified 40 CFR 180.303(a) on soybean to 0.1 ppm and revise the terminology to soybean, seed; squash, winter to 0.2 ppm; and pumpkin to 0.2 ppm.

Although the oxamyl RED stated that the tolerance in § 180.303(a) on celery should be increased from 3.0 to 10.0 ppm to reflect a 14-day PHI, prior to the RED, the Agency reviewed a comment from a registrant and determined that residues on celery did not exceed the established tolerance of 3 ppm based on data that reflected a 21-day PHI, and therefore because registrations for celery reflect a 21-day PHI, the current tolerance of 3 ppm would be appropriate. (The Agency's June 1999 document which reviewed celery residue data will be made available in the docket of this proposed rule). However, the same registrant recently requested that the Agency proceed to increase the tolerance for oxamyl on celery from 3.0 to 10.0 ppm based on data that reflected a 14-day PHI and agreed to apply for changing the PHI to 14 days. Therefore, the Agency is proposing to increase the tolerance in § 180.303(a) on celery to 10.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice in newly recodified 40 CFR 180.303(a) from "fruit, citrus" to "fruit, citrus, group 10."

17. *Oxyfluorfen*. While active oxyfluorfen registrations for fallow-land use with a rotation to popcorn exist, due to a 10 month plant-back interval, the Agency determined that a tolerance is not needed. Because there are no other active registrations for oxyfluorfen use on popcorn which require a tolerance, the Agency determined that the tolerance in 40 CFR 180.381(a) for residues of oxyfluorfen in or on popcorn grain is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.381(a) on corn, pop, grain.

18. *Paraquat*. In the final rule published on August 1, 2007 (72 FR 41913), the Agency announced that duplicate tolerances for paraquat were inadvertently created on September 6, 2006 (71 FR 52487), when the Agency established and revised certain tolerances for paraquat in 40 CFR 180.205, and that the duplicate

tolerances are not needed and would be addressed in a future publication in the **Federal Register**. Currently, the individual tolerances at 0.05 ppm on cucurbits; nut; and bean, snap, succulent are covered by the tolerances at 0.05 ppm on vegetable, cucurbit, group 9; nut, tree, group 14; and vegetable, legume, edible podded, subgroup 6A; respectively. Also, the individual tolerances at 0.05 ppm on bean, lima, succulent and pea, succulent are covered by the subgroup tolerance on pea and bean, succulent shelled, subgroup 6B at 0.05 ppm. In addition, the individual tolerances at 0.3 ppm on bean, dry, seed and pea, dry, seed are covered by the subgroup tolerance on pea and bean, dried shelled, except soybean, subgroup 6C, except guar bean at 0.3 ppm. Because paraquat residues are covered by existing group or subgroup tolerances, the aforementioned individual tolerances are no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the individual tolerances for paraquat in 40 CFR 180.205(a) on bean, dry, seed; bean, lima, succulent; bean, snap, succulent; pea, dry, seed; pea, succulent; cucurbits, and nut.

19. *Propargite*. In a final rule published on August 1, 2007 (72 FR 41913), the Agency's response to a comment included an acknowledgement that the 100 mg/kg MRL on dried hops for propargite, established by Codex, is appropriate, and therefore the U.S. tolerance should be increased from 30.0 to 100.0 ppm. Therefore, EPA is proposing to increase the tolerance for propargite in 40 CFR 180.259(a) on hop, dried cones to 100.0 ppm. For a detailed discussion of the Agency's rationale on the modification of the dried hops tolerance, refer to the final rule published in the **Federal Register** of August 1, 2007. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Also, in the final rule published on August 1, 2007 (72 FR 41913), the Agency announced that the appropriate basis to revoke the tolerance on peanut hay for propargite is that registration labels prohibit the feeding of propargite-treated peanut hay to livestock, and therefore the tolerance is no longer needed, and would be addressed in a future publication in the **Federal Register**. Therefore, EPA is proposing to revoke the tolerance for propargite in 40 CFR 180.259(a) on peanut, hay. In addition, EPA is proposing to revise commodity terminology to conform to

current Agency practice in 40 CFR 180.259(a) for “corn, stover” to “corn, field, stover,” “corn, pop, stover,” and “corn, sweet, stover.”

20. *Propylene oxide*. In the **Federal Register** notice of October 18, 2006 (71 FR 61463) (FRL–8099–5), EPA issued a technical correction which stated that the terms of the May 24, 2006 **Federal Register** notice (71 FR 29957) (FRL–8068–4) are controlling regarding EPA’s announcement on the receipt of a registrant’s request to voluntarily amend certain propylene oxide registrations and delete the last edible gum uses from propylene oxide registrations. EPA approved the edible gum use deletions with the close of the 30–day comment period, made them effective on June 23, 2006, and permitted the registrant to sell and distribute existing stocks for 1 year; i.e., until April 20, 2007. The Agency believes that end users have had sufficient time to exhaust those existing stocks and for treated edible gum commodities to have cleared the channels of trade. Therefore, EPA is proposing in 40 CFR 180.491(a)(1) to revoke the tolerance on gum, edible.

Based on available data that showed residues of propylene oxide as high as <137.0 ppm in or on cacao bean powder, EPA determined that the data could be translated to support the use on the bean (expected residues would be less on the dried cacao bean than powder due to vast surface area differences) and the cacao bean tolerance should be decreased from 300 to 200 ppm, and a tolerance should be established on cacao bean, cocoa powder at 200 ppm. Therefore, the Agency is proposing in 40 CFR 180.491(a)(1) to revise the commodity terminology from cocoa bean, bean to cacao bean, dried bean and decrease the tolerance to 200 ppm, and establish a tolerance on cacao bean, cocoa powder at 200 ppm.

Based on available data that showed residues of propylene oxide as high as <164.0 ppm in or on dried basil and translation of that data to dried garlic and onion, EPA determined that tolerances should be established on dried garlic and dried onion, each at 300 ppm. Therefore, the Agency is proposing in 40 CFR 180.491(a)(1) to establish tolerances on garlic, dried at 300 ppm and onion, dried at 300 ppm.

In addition, EPA is proposing to revise commodity terminology in 40 CFR 180.491(a)(1) to conform to current Agency practice as follows: “nutmeat, processed, except peanuts” to “nut, tree, group 14” and “spices, processed” to “herbs and spices, group 19, dried.”

Because residues of propylene chlorohydrin are formed upon

postharvest fumigation of cacao bean, dried spices and vegetables, and nutmeats (except peanut), EPA determined that certain tolerances should be established not only for propylene oxide in 40 CFR 180.491(a)(1), as described in this document, but also for propylene chlorohydrin in 40 CFR 180.491(a)(2). There are existing tolerances in 40 CFR 180.491(a)(2) for propylene chlorohydrin on fig; grape, raisin; and plum, prune, dried. The Agency determined that these new tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available data that showed residues of propylene chlorohydrin (the reaction product of propylene oxide) as high as <20.0 ppm in or on cocoa powder and expected by the Agency in or on cacao bean at <13 ppm, EPA determined that tolerances for propylene chlorohydrin (from use of propylene oxide as a postharvest fumigant) should be established on each at 20.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.491(a)(2) to establish tolerances on cacao bean, dried bean at 20.0 ppm and cacao bean, cocoa powder at 20.0 ppm.

Based on available data that showed residues of propylene chlorohydrin as high as <6,000 ppm and <1,500 ppm in or on dried basil and spice, respectively, and translation of data for dried basil to dried garlic and onion, EPA determined that tolerances for propylene chlorohydrin (from use of propylene oxide as a postharvest fumigant) should be established on dried basil, dried garlic, and dried onion at 6,000 ppm and herbs and spices, group 19, dried, except basil at 1,500 ppm. Therefore, the Agency is proposing in 40 CFR 180.491(a)(2) to establish tolerances at 6,000 ppm on basil, dried leaves; garlic, dried; and onion, dried; and at 1,500 ppm on herbs and spices, group 19, dried, except basil.

Based on available data that showed residues of propylene chlorohydrin as high as <6 ppm in or on almond, pecan, and walnut, EPA determined that a tolerance for propylene chlorohydrin (from use of propylene oxide as a postharvest fumigant) should be established on the tree nut group at 10.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.491(a)(2) to establish a tolerance on nut, tree, group 14 at 10.0 ppm.

There are no Codex MRLs for propylene oxide or propylene chlorohydrin.

21. *Streptomycin*. Based on available field trial data for succulent and dry

beans grown from treated seeds that showed streptomycin residues were non-detectable and a limit of detection (LOD) of 0.45 ppm, the Agency determined that tolerances should be established for dry and succulent beans, each at 0.5 ppm. Therefore, the Agency is proposing in 40 CFR 180.245(a)(1) to establish tolerances on bean, dry, seed and bean, succulent, each at 0.5 ppm.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice in 40 CFR 180.245(a)(1) from “fruit, pome” to “fruit, pome, group 11.”

There are no Codex MRLs for streptomycin.

22. *Triadimefon*. Currently, tolerances for triadimefon are established in 40 CFR 180.410(a) for residues of triadimefon and its metabolites containing chlorophenoxy and triazole moieties (expressed as the parent compound). However, the Agency determined that residues of concern for tolerance expression for all raw agricultural commodities are triadimefon and triadimenol. Therefore, EPA is proposing to revise the introductory text of 40 CFR 180.410(a) as follows:

Tolerances are established for the combined residues of the fungicide triadimefon, 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and triadimenol,  $\beta$ -(4-chlorophenoxy)- $\alpha$ -(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, expressed as triadimefon, in or on the following food commodities.

Based on available ruminant exaggerated feeding data at 125x MTDB of triadimefon that show highest residues were in kidney (at 0.412 ppm in kidney), EPA calculated that the maximum expected residues in kidney at 1x MTDB is 0.0016 ppm, which is below the livestock method LOD of 0.01 ppm. Therefore, EPA determined that there is no reasonable expectation of finite triadimefon residues of concern in milk and tissues of cattle, goats, horses and sheep, and that their tolerances are no longer needed under 40 CFR 180.6(a)(3). In addition, with the exception of wet apple pomace, there are no active registered feed item uses of triadimefon for cattle, goat, horse, and sheep. Further, the registrant has requested voluntary deletion of specific triadimefon uses including apple, and in the **Federal Register** of April 16, 2008 (73 FR 20640)(FRL–8361–1) the Agency published a notice of receipt of request for voluntary cancellation of the last active registration for use of triadimefon on apples, grapes, pears, and raspberries. In that notice, the Agency provides a public comment period of 30–days and states that because the

registrant has provided information that it is not likely that any existing stocks are out in the channels of trade, the Agency does not believe that there is a need to permit the registrant to sell or distribute existing stocks and does not believe that there is a need for other persons to sell and/or use existing stocks. Therefore, the Agency determined that the last day for end use of that product will be the date of publication of the cancellation order in the **Federal Register**. Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.410(a) on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; sheep, fat; sheep, meat; sheep, meat byproducts; and milk. In addition, the Agency is proposing to revoke the tolerances in 40 CFR 180.410(a) on apple; apple, wet pomace; grape; and pear; and in § 180.410(c) the regional tolerance on raspberry and reserve that section for tolerances with regional registrations.

Because there are no active registered uses of triadimefon on any poultry or swine feed items, EPA determined that there is no reasonable expectation of finite triadimefon residues of concern in or on eggs, and tissues of poultry and hogs, and that their tolerances are no longer needed under 40 CFR 180.6(a)(3). Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.410 on hog, fat; hog, meat; hog, meat byproducts; poultry, fat; poultry, meat; poultry, meat byproducts; and egg.

The tolerances in 40 CFR 180.410(a) on apple, dry pomace, grape pomace (wet and dry), and grape, raisin, waste should be revoked because the Agency considers these commodities to no longer be significant livestock feed items, and therefore the tolerances are no longer needed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.410(a) on apple, dry pomace; grape pomace (wet and dry); and grape, raisin, waste.

Because there have been no active registered uses of triadimefon on barley, sugar beets, chickpeas, grasses, nectarines, and wheat for at least 10 years, and cucurbits since July 1999, the Agency determined that their tolerances are no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.410 on barley, milled fractions (except flour); beet, sugar, roots; beet, sugar, tops; chickpea, seed; cucurbits; grass, forage; grass, seed screenings; grass, straw, grown for seed; nectarine; wheat, forage; wheat, grain; wheat, milled

fractions (except flour); and wheat, straw.

Based on available data that showed combined triadimefon residues of concern as high as 8.1 ppm in or on treated pineapple peel and 0.18 ppm in or on treated pineapple pulp, EPA calculated that the maximum expected residue in or on whole pineapple is 1.82 ppm. Therefore, EPA determined that the tolerances on fresh pineapple should each be decreased from 3.0 to 2.0 ppm. In addition, this level harmonizes with the Codex MRL for pineapple at 2 mg/kg. Consequently, the Agency is proposing to decrease the tolerance in 40 CFR 180.410(a) on pineapple, fresh to 2.0 ppm and revise the commodity terminology to "pineapple."

Because there will be no shared tolerances for triadimefon with those for triadimenol in 40 CFR 180.450, § 180.3(d)(13), which states that the total amount of residues for triadimefon, triadimenol, and a butanediol metabolite shall not yield more residue than that permitted by the higher of the two tolerances, is no longer needed and therefore 40 CFR 180.3(d)(13) should be removed. Consequently, EPA is proposing to remove the current 40 CFR 180.3(d)(13) and redesignate current 40 CFR 180.3(d)(14) as 40 CFR 180.3(d)(13).

Currently, there are Codex MRLs for triadimefon on eggs, meat (from mammals other than marine mammals), milks, pineapple, poultry meat, sugar beets, wheat, and wheat straw.

23. *Triadimenol*. Based on available ruminant exaggerated feeding data at 189x MTDB of triadimenol that show highest combined triadimenol residues of concern were in kidney and there at 0.206 ppm (residues were lower in milk, muscle, liver, and fat), EPA calculated that the maximum expected residues in kidney at 1x MTDB is 0.0011 ppm, which is below the livestock method LOQ of 0.05 ppm and LOD of 0.01 ppm. Therefore, because residues in milk and tissues were expected to be less than the LOQ, EPA determined that there is no reasonable expectation of detecting finite residues of triadimenol residues of concern in milk and tissues of cattle, goats, horses and sheep and these tolerances are no longer needed under 40 CFR 180.6(a)(3). Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.450(b) on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; sheep, fat; sheep, meat; sheep, meat byproducts; and milk.

Based on available ruminant exaggerated feeding data and a 272x

MTDB of triadimenol for swine, EPA calculated that the maximum expected residues in kidney at 10x MTDB is 0.0076 ppm, which is below the livestock method LOQ of 0.05 ppm and LOD of 0.01 ppm. Therefore, EPA determined that there is no reasonable expectation of detecting finite residues of triadimenol residues of concern in tissues of hogs and these tolerances are no longer needed under 40 CFR 180.6(a)(3). Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.450(b) on hog, fat; hog, meat; and hog, meat byproducts.

Based on available poultry exaggerated feeding data and a 2720x MTDB of triadimenol that show highest combined triadimenol residues of concern were in liver and there at 0.703 ppm (residues were lower in egg, muscle, and fat), EPA calculated that the maximum expected residues in liver at 1x MTDB is 0.00026 ppm, which is below the livestock method LOQ of 0.05 ppm and LOD of 0.01 ppm. Therefore, because residues in eggs and tissues were expected to be less than the LOQ, EPA determined that there is no reasonable expectation of detecting finite residues of triadimenol residues of concern in eggs and tissues of poultry and these tolerances are no longer needed under 40 CFR 180.6(a)(3). Consequently, the Agency is proposing to revoke the tolerances in 40 CFR 180.450(b) on poultry, fat; poultry, meat; poultry, meat byproducts; and egg.

Because cotton forage is no longer considered by the Agency to be significant livestock feed items as delineated in "Table 1. —Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996 (available at [http://www.epa.gov/opptsfrs/publications/OPPTS\\_Harmonized/860\\_Residue\\_Chemistry\\_Test\\_Guidelines/Series/](http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/)), EPA determined that the tolerance is no longer needed, and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerance in 40 CFR 180.450 on cotton, forage.

As a result of proposing that all the tolerances in 40 CFR 180.450 (b) are to be revoked and in order to conform to current Agency practice, EPA is proposing to revise 40 CFR 180.450 by removing existing paragraph (b) and redesignating and reserving paragraph (b) for section 18 emergency exemptions, adding and reserving paragraph (c) for tolerances with regional registrations, and adding and reserving paragraph (d) tolerances for indirect or inadvertent residues.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice as follows: in 40 CFR 180.450(a), “corn, forage” to “corn, field, forage” and “corn, sweet, forage;” “corn, grain” to “corn, field, grain” and “corn, pop, grain;” and “corn, stover” to “corn, field, stover;” “corn, pop, stover;” and “corn, sweet, stover.”

EPA is not proposing to revoke sorghum tolerances for triadimenol at this time. The Agency is in the process of addressing one active registration and intends to address the tolerances in a future publication in the **Federal Register**.

There are Codex MRLs for triadimenol on commodities including meat (from mammals other than marine mammals), milks, eggs, and poultry meat.

24. *Tridemorph*. Tridemorph (2,6-dimethyl-4-tridecylmorpholine) is a fungicide used in Central and South America on bananas. There are no U.S. registrations for tridemorph. In the 2005 tridemorph TRED, EPA stated that the foreign residue data for tridemorph is adequate for tolerance reassessment purposes. Based on foreign field trial data that showed residues of tridemorph as high as 0.907 ppm in or on unbagged bananas, the Agency determined that the existing import tolerance should be increased from 0.1 to 1.0 ppm. Therefore, EPA is proposing to increase the import tolerance in 40 CFR 180.372 on bananas from 0.1 to 1.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

There are no Codex MRLs for tridemorph.

25. *Ziram*. In a final rule published in the **Federal Register** of September 15, 2006 (71 FR 54423)(FRL-8077-9), included among tolerance actions for multiple active ingredients, EPA announced receipt of a comment from VJP Consulting, Inc. on behalf of Taminco, a member of the Ziram Task Force consortium, which expressed an interest in the retention of tolerances for ziram residues in or on onion and melon for import purposes. In its response, the Agency took no action on the ziram tolerances for onion and melon at that time. However, shortly after that time, Taminco informed the Agency that it will not support the tolerances for ziram residues in or on onion and melon for import purposes. Because there have been no active registrations for ziram use on onion since 1991 and on melon since 1995, and no longer interest in supporting them with data for import purposes,

tolerances on onion and melon are no longer needed. Therefore, EPA is proposing to revoke the tolerances for residues of ziram, calculated as zinc ethylenebisdithiocarbamate, in 40 CFR 180.116(a) in or on onion and melon.

Also, because the tolerances expired on January 15, 2007, EPA is proposing to remove all the entries for garden beet roots and tops, cabbage, and cauliflower from 40 CFR 180.116(a).

Codex MRLs do exist for total dithiocarbamates on onion, bulb; onion, spring; melons, except watermelon; and watermelon, but are determined as carbon disulfide and apply to the use of individual or combinations of dithiocarbamates, including ziram. The U.S. tolerances on onion and melon for ziram in 40 CFR 180.116 are calculated as zinc ethylenebisdithiocarbamate.

#### *B. What is the Agency's Authority for Taking this Action?*

A “tolerance” represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore “adulterated” under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FQPA. The safety finding determination is discussed in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance

actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued post-FQPA REDs for aldicarb, ametryn, 2,4-DB, dicamba, dimethipin, disulfoton, diuron, ethoprop, etridiazole, fenitrothion, malathion, metaldehyde, methyl parathion, *o*-phenylphenol and its sodium salt, oxamyl, oxyfluorfen, paraquat, propargite, propylene oxide, triadimefon, and ziram, and TREDs for diuron, streptomycin, triadimenol, and tridimorph. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of “reasonable certainty of no harm.” However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as “import tolerances,” are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import

tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticide residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.
2. There is a reasonable expectation that finite residues will exist.
3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of

finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this document and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

### *C. When Do These Actions Become Effective?*

With the exception of specific tolerance revocations for dimethipin and methyl parathion for which EPA is proposing specific expiration/revocation dates, the Agency is proposing that these revocations, modifications, establishments of tolerances, and revisions of tolerance nomenclature become effective on the date of publication of the final rule in the **Federal Register**. With the exception of the proposed revocation of specific tolerances for dimethipin and methyl parathion, the Agency believes that existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been completely exhausted and that treated commodities have cleared the channels of trade. EPA is proposing expiration/revocation dates of May 31, 2010 and January 24, 2009 for the specific tolerances for dimethipin and methyl parathion, respectively. The Agency believes that this revocation date allows users to exhaust stocks and allows sufficient time for passage of treated commodities through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

### **III. Are the Proposed Actions Consistent with International Obligations?**

The tolerance actions in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in Unit II.A. Specific tolerance actions in this proposed rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A.

### **IV. Statutory and Executive Order Reviews**

EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review

under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL-5753-1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity

importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCFA. For these same reasons, the Agency has determined that this proposed rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal

Government and Indian tribes." This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 22, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

**§ 180.3 [Amended]**

2. Section 180.3 is amended by removing paragraph (d)(13) and redesignating paragraph (d)(14) as (d)(13).

3. Section 180.106 is amended by revising paragraph (a) and the tables in paragraphs (b) and (c), to read as follows:

**§ 180.106 Diuron; tolerances for residues**

(a) *General.* Tolerances are established for the combined residues of the herbicide diuron, 3-(3,4-dichlorophenyl)-1,1-dimethylurea and its metabolites convertible to 3,4-dichloroaniline in or on food commodities, as follows:

Commodity	Parts per million
Alfalfa, forage .....	3.0
Alfalfa, hay .....	2.0
Apple .....	0.1
Artichoke, globe .....	1
Asparagus .....	7
Banana .....	0.1
Berry group 13 .....	0.1
Cattle, fat .....	1
Cattle, meat .....	1
Cattle, meat byproducts .....	1
Citrus, oil .....	3.0
Corn, field, grain .....	0.1
Corn, pop, grain .....	0.1
Cotton, undelinted seed .....	0.2
Fish – freshwater finfish, farm raised .....	2.0
Fruit, citrus, group 10, except lemon .....	0.05

Commodity	Parts per million
Goat, fat	1
Goat, meat	1
Goat, meat byproducts	1
Grain, aspirated fractions	5.0
Grape	0.05
Grass, forage, except bermudagrass	2
Grass, hay, except bermudagrass	2
Hazelnut	0.1
Hog, fat	1
Hog, meat	1
Hog, meat byproducts	1
Horse, fat	1
Horse, meat	1
Horse, meat byproducts	1
Lemon	0.5
Nut, macadamia	0.05
Olive	1
Papaya	0.5
Peach	0.1
Pear	1
Pea, field, seed	0.1
Pea, field, vines	2
Pea, field, hay	2
Pecan	0.05
Peppermint, tops	1.5
Pineapple	0.1
Pineapple, process residue	0.4
Sheep, fat	1
Sheep, meat	1
Sheep, meat byproducts	1
Sorghum, grain, forage	2
Sorghum, grain, grain	0.5
Sorghum, grain, stover	2
Spearmint, tops	1.5
Sugarcane, cane	0.2
Sugarcane, molasses	0.7
Walnut	0.05
Wheat, bran	0.7
Wheat, forage	2
Wheat, grain	0.5
Wheat, hay	2
Wheat, straw	1.5

(b) \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Catfish	2.0	06/30/08

(c) \* \* \*

Commodity	Parts per million
Barley, bran	0.7
Barley, grain	0.2
Barley, hay	2
Barley, straw	1.5
Cactus	0.05
Clover, forage	0.1
Clover, hay	1.0
Oat, forage	2
Oat, grain	0.1
Oat, hay	2
Oat, straw	1.5
Trefoil, forage	0.1
Trefoil, hay	1.5
Vetch, forage	0.1
Vetch, hay	1.5

\* \* \* \* \*

**§ 180.111 [Amended]**

4. Section 180.111 is amended by removing the entries for flax, straw; lespedeza, seed; lespedeza, straw; vetch, seed; and vetch, straw from the table in paragraph (a)(1).

5. Section 180.116 is amended by revising the table in paragraph (a) and footnote 1 to read as follows:

**§ 180.116 Ziram; tolerances for residues.**  
(a) \* \* \*

Commodity	Parts per million
Almond	0.1 <sup>1</sup>
Apple	7.0 <sup>1</sup>
Apricot	7.0 <sup>1</sup>
Blackberry	7.0 <sup>1</sup>
Blueberry	7.0 <sup>1</sup>
Cherry, sweet	7.0 <sup>1</sup>
Cherry, tart	7.0 <sup>1</sup>
Grape	7.0
Huckleberry	7.0
Peach	7.0
Pear	7.0 <sup>1</sup>
Pecan	0.1
Quince	7.0 <sup>1</sup>
Strawberry	7.0
Tomato	7.0 <sup>1</sup>

<sup>1</sup> Some of these tolerances were established on the basis of data acquired at the public hearings held in 1950 (formerly §180.101) and the remainder were established on the basis of pesticide petitions presented under the procedure specified in the amendment to the Federal Food, Drug, and Cosmetic Act by Public Law 518, 83d Congress (68 Stat. 511)

\* \* \* \* \*

6. Section 180.121 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.121 Methyl parathion; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Alfalfa, forage	1.25	None
Alfalfa, hay	5.0	None
Almond	0.1	None
Almond, hulls	3.0	None
Barley	1.0	None
Bean, dry, seed	1.0	1/24/09
Beet, sugar, roots	0.1	1/24/09
Beet, sugar, tops	0.1	1/24/09
Cabbage	1.0	1/24/09
Corn	1.0	None
Corn, field, forage	1.0	None
Corn, sweet, forage	1.0	None
Cotton, undelinted seed	0.75	None

Commodity	Parts per million	Expiration/Revocation Date
Grass, forage	1.0	None
Hop, dried cones	1.0	1/24/09
Oat	1.0	None
Onion	1.0	None
Peanut	1.0	None
Pea, dry, seed	1.0	1/24/09
Pea, field, vines	1.0	None
Pecan	0.1	1/24/09
Potato	0.1	None
Rapeseed, seed	0.2	None
Rice, grain	1.0	None
Soybean, seed	0.1	None
Soybean, hay	1.0	None
Sunflower, seed	0.2	None
Sweet potato, roots	0.1	None
Walnut	0.1	None
Wheat	1.0	None

\* \* \* \* \*

7. Section 180.129 is revised to read as follows:

**§ 180.129 o-Phenylphenol and its sodium salt; tolerances for residues.**

(a) *General.* Tolerances are established for combined residues of the fungicide o-phenylphenol and sodium o-phenylphenate, each expressed as o-phenylphenol, from postharvest application of either in or on the following food commodities:

Commodity	Parts per million
Apple	25
Cantaloupe (NMT 10 ppm in edible portion)	125
Carrot, roots	20
Cherry	5
Citrus fruits	10
Cucumber	10
Lemon	10
Nectarine	5
Orange	10
Pepper, bell	10
Peach	20
Pear	25.0
Pineapple	10
Plum, prune, fresh	20
Sweet potato, roots	15
Tomato	10

(b) *Section 18 emergency exemptions.*

[Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.*

[Reserved]

**§ 180.167 [Removed]**

8. Section 180.167 is removed.

9. Section 180.183 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.183 O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Barley, grain	0.75
Barley, straw	5.0
Bean, lima	0.75
Bean, snap, succulent	0.75
Broccoli	0.75
Brussels sprouts	0.75
Cabbage	0.75
Cauliflower	0.75
Coffee, bean	0.3
Cotton, undelinted seed	0.75
Lettuce	0.75
Peanut	0.75
Pea, dry, seed	0.75
Pea, field, vines	5.0
Pea, succulent	0.75
Pepper	0.1
Potato	0.75
Spinach	0.75
Tomato	0.75
Wheat, hay	5.0
Wheat, grain	0.3
Wheat, straw	5.0

\* \* \* \* \*

**§ 180.205 [Amended]**

10. Section 180.205 is amended by removing the entries for bean, dry, seed; bean, lima, succulent; bean, snap succulent; cucurbits; nut; pea, dry, seed; and pea, succulent from the table in paragraph (a).

11. Section 180.227 is amended by revising the tables in paragraphs (a)(1), (a)(2) and (a)(3) to read as follows:

**§ 180.227 Dicamba; tolerances for residues.**

(a) \* \* \* (1) \* \* \*

Commodity	Parts per million
Barley, grain	6.0
Barley, hay	2.0
Barley, straw	15.0
Corn, field, forage	3.0
Corn, field, grain	0.1
Corn, field, stover	3.0
Corn, pop, grain	0.1
Corn, pop, stover	3.0
Corn, sweet, forage	0.50
Corn, sweet, kernal plus cob with husks	0.04
Corn, sweet, stover	0.50
Cotton, undelinted seed	0.2
Grass, forage, fodder and hay, group 17, forage	125.0
Grass, forage, fodder and hay, group 17, hay	200.0
Millet, proso, forage	90.0
Millet, proso, grain	2.0
Millet, proso, hay	40.0

Commodity	Parts per million
Millet, proso, straw	30.0
Oat, forage	90.0
Oat, grain	2.0
Oat, hay	40.0
Oat, straw	30.0
Rye, forage	90.0
Rye, grain	2.0
Rye, straw	30.0
Sorghum, grain, forage	3.0
Sorghum, grain, grain	4.0
Sorghum, grain, stover	10.0
Sugarcane, cane	0.1
Sugarcane, molasses	2.0
Wheat, forage	90.0
Wheat, grain	2.0
Wheat, hay	40.0
Wheat, straw	30.0

(2) \* \* \*

Commodity	Parts per million
Asparagus	4.0
Cattle, fat	0.3
Cattle, kidney	25.0
Cattle, meat	0.25
Cattle, meat byproducts, except kidney	3.0
Goat, fat	0.3
Goat, kidney	25.0
Goat, meat	0.25
Goat, meat byproducts, except kidney	3.0
Hog, fat	0.3
Hog, kidney	25.0
Hog, meat	0.25
Hog, meat byproducts, except kidney	3.0
Horse, fat	0.3
Horse, kidney	25.0
Horse, meat	0.25
Horse, meat byproducts, except kidney	3.0
Milk	0.2
Sheep, fat	0.3
Sheep, kidney	25.0
Sheep, meat	0.25
Sheep, meat byproducts, except kidney	3.0

(3) \* \* \*

Commodity	Parts per million
Grain, aspirated fractions	1000
Soybean, hulls	30.0
Soybean, seed	10.0

12. Section 180.245 is amended by revising paragraph (a)(1) to read as follows:

**§ 180.245 Streptomycin; tolerances for residues.**

(a) \* \* \* (1) Tolerances are established for residues of the fungicide streptomycin in or on food commodities, as follows:

Commodity	Parts per million
Bean, dry, seed	0.5
Bean, succulent	0.5
Fruit, pome, group 11	0.25

\* \* \* \* \*

13. Section 180.258 is amended by revising the table in paragraph (a), and by removing the text from paragraph (c) and reserving the paragraph designation and heading to read as follows:

**§ 180.258 Ametryn; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Banana	0.25
Corn, field, forage	0.1
Corn, field, grain	0.05
Corn, field, stover	0.05
Corn, pop, grain	0.05
Corn, pop, stover	0.05
Corn, sweet, forage	0.5
Corn, sweet, kernel plus cob with husks removed	0.25
Corn, sweet, stover	0.5
Pineapple	0.05
Sugarcane, cane	0.05

\* \* \* \* \*

(c) *Tolerances with regional registrations.* [Reserved]

\* \* \* \* \*

14. Section 180.259 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.259 Propargite; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Almond	0.1
Almond, hulls	55.0
Bean, dry, seed	0.2
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Citrus, oil	30.0
Corn, field, forage	10.0
Corn, field, grain	0.1
Corn, field, stover	10.0
Corn, pop, grain	0.1
Corn, pop, stover	10.0
Corn, sweet, forage	10.0
Corn, sweet, stover	10.0
Cotton, undelinted seed	0.1
Egg	0.1
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Grain, aspirated fractions	0.4
Grape	10.0
Grapefruit	5.0
Hog, fat	0.1
Hog, meat	0.1
Hog, meat byproducts	0.1

Commodity	Parts per million
Hop, dried cones	100.0
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Lemon	5.0
Milk, fat (0.08 ppm in milk)	2.0
Nectarine	4.0
Orange	10.0
Peanut	0.1
Peppermint, tops	50.0
Poultry, fat	0.1
Potato	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, meat byproducts	0.1
Sorghum, grain, forage	10.0
Sorghum, grain, grain	5.0
Sorghum, grain, stover	10.0
Spearmint, tops	50.0
Tea, dried	10.0
Walnut	0.1

\* \* \* \* \*

**§ 180.262 [Amended]**

15. Section 180.262 is amended by removing the entries for peanut and peanut, hay from the table in paragraph (a).

**§ 180.269 [Amended]**

16. Section 180.269 is amended by removing the entries for sugarcane, forage and sugarcane, stover from the table in paragraph (a).

17. Section 180.303 is revised to read as follows:

**§ 180.303 Oxamyl; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the insecticide oxamyl, methyl *N,N*-dimethyl-*N*-[(methylcarbamoyl)-oxy]-1-thiooxamimidate, and its oxime metabolite methyl *N,N*-dimethyl-*N*-hydroxy-1-thiooxamimidate calculated as oxamyl in or on the following food commodities:

Commodity	Parts per million
Apple	2
Banana	0.3
Cantaloupe	2.0
Carrot	0.1
Celery	10.0
Cotton, undelinted seed	0.2
Cucumber	2.0
Eggplant	2.0
Fruit, citrus, group 10	3
Garlic, bulb	0.2
Melon, honeydew	2.0
Onion, bulb	0.2
Peanut	0.05
Peanut, hay	2.0
Pear	2.0
Peppermint, tops	10.0
Pepper, bell	2.0
Pepper, nonbell	5.0
Pineapple	1

Commodity	Parts per million
Pineapple, process residue	2.0
Pumpkin	0.2
Soybean, seed	0.1
Spearmint, tops	10.0
Squash, summer	2.0
Squash, winter	0.2
Tomato	2
Vegetable, tuberous and corm, subgroup 1C	0.1
Watermelon	2.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

18. Section 180.331 is revised to read as follows:

**§ 180.331 4-(2,4-Dichlorophenoxy) butyric acid; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide 4-(2,4-dichlorophenoxy) butyric acid (2,4-DB), both free and conjugated, determined as the acid, in or on food commodities, as follows:

Commodity	Parts per million
Alfalfa, forage	0.7
Alfalfa, hay	2.0
Cattle, meat byproducts	0.05
Clover	0.2
Goat, meat byproducts	0.05
Hog, meat byproducts	0.05
Horse, meat byproducts	0.05
Peanut	0.2
Peppermint, tops	0.2
Sheep, meat byproducts	0.05
Soybean, forage	0.7
Soybean, hay	2.0
Soybean, seed	0.5
Spearmint, tops	0.2
Trefoil, forage	0.7
Trefoil, hay	2.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

19. Section 180.370 is amended by alphabetically adding an entry for the commodity peanut, hay to the table in paragraph (a), to read as follows:

**§ 180.370 5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * * * *	*
Peanut, hay	0.1
* * * * *	*

\* \* \* \* \*  
20. Section 180.372 is revised to read as follows:

**§ 180.372 2,6-Dimethyl-4-tridecylmorpholine; tolerances for residues.**

(a) *General.* A tolerance is established for residues of the fungicide 2,6-dimethyl-4-tridecylmorpholine in or on the following food commodity:

Commodity	Parts per million
Banana <sup>1</sup>	1.0

<sup>1</sup>There are no U.S. registrations.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

**§ 180.381 [Amended]**

21. Section 180.381 is amended by removing the entry for corn, pop, grain from the table in paragraph (a).

22. Section 180.406 is amended by revising the table in paragraph (a) to read as follows:

**§ 180.406 Dimethipin; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million	Expiration/Revocation Date
Cattle, meat	0.01	5/31/10
Cattle, meat byproducts	0.01	5/31/10
Cotton, undelinted seed	0.50	5/31/10
Goat, meat	0.01	5/31/10
Goat, meat byproducts	0.01	5/31/10
Hog, meat	0.01	5/31/10
Hog, meat byproducts	0.01	5/31/10
Horse, meat	0.01	5/31/10
Horse, meat byproducts	0.01	5/31/10
Sheep, meat	0.01	5/31/10
Sheep, meat byproducts	0.01	5/31/10

\* \* \* \* \*

23. Section 180.410 is revised to read as follows:

**§ 180.410 Triadimefon; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the fungicide triadimefon, 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and triadimenol, β-(4-chlorophenoxy)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-

ethanol, expressed as triadimefon, in or on the following food commodities:

Commodity	Parts per million
Pineapple .....	2.0

- (b) *Section 18 emergency exemptions.* [Reserved]
- (c) *Tolerances with regional registrations.* [Reserved]
- (d) *Indirect or inadvertent residues.* [Reserved]

24. Section 180.450 is revised to read as follows:

**§ 180.450 Beta-(4-Chlorophenoxy)-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol; tolerances for residues.**

(a) *General.* Tolerances are established for the combined residues of the fungicide β-(4-chlorophenoxy)-α-(1,1-dimethyl-ethyl)-1H-1,2,4-triazole-1-ethanol (triadimenol) and its butanediol metabolite, 4-(4-chlorophenoxy)-2,2-dimethyl-4-(1 butanediol, calculated as triadimenol, in or on the following commodities:

Commodity	Parts per million
Banana <sup>1</sup> .....	0.2
Barley, grain .....	0.05
Barley, straw .....	0.2
Corn, field, forage .....	0.05
Corn, field, grain .....	0.05
Corn, field, stover .....	0.05
Corn, pop, grain .....	0.05
Corn, pop, stover .....	0.05
Corn, sweet, forage .....	0.05
Corn, sweet, kernel plus cob with husks removed .....	0.05
Corn, sweet, stover .....	0.05
Cotton, undelinted seed .....	0.02
Oat, forage .....	2.5
Oat, grain .....	0.05
Oat, straw .....	0.2
Rye, forage .....	2.5
Rye, grain .....	0.05
Rye, straw .....	0.1
Sorghum, forage, hay .....	0.05
Sorghum, grain, grain .....	0.01
Sorghum, grain, stover .....	0.01
Wheat, forage .....	2.5
Wheat, grain .....	0.05
Wheat, straw .....	0.2

<sup>1</sup> There are no U.S. registrations for banana (whole) as of September 22, 1993.

- (b) *Section 18 emergency exemptions.* [Reserved]
- (c) *Tolerances with regional registrations.* [Reserved]
- (d) *Indirect or inadvertent residues.* [Reserved]

25. Section 180.491 is amended by revising the tables in paragraphs (a)(1) and (a)(2) to read as follows:

**§ 180.491 Propylene oxide; tolerances for residues.**

- (a) \* \* \* (1) \* \* \*

Commodity	Parts per million
Cacao bean, dried bean .....	200
Cacao bean, cocoa powder .....	200
Fig .....	3.0
Garlic, dried .....	300
Grape, raisin .....	1.0
Herbs and spices, group 19, dried .....	300
Nut, tree, group 14 .....	300
Onion, dried .....	300
Plum, prune, dried .....	2.0

(2) \* \* \*

Commodity	Parts per million
Basil, dried leaves .....	6000
Cacao bean, dried bean .....	20.0
Cacao bean, cocoa powder .....	20.0
Fig .....	3.0
Garlic, dried .....	6000
Grape, raisin .....	4.0
Herbs and spices, group 19, dried, except basil .....	1500
Nut, tree, group 14 .....	10.0
Onion, dried .....	6000
Plum, prune, dried .....	2.0

\* \* \* \* \*  
26. Section 180.523 is revised to read as follows:

**§ 180.523 Metaldehyde; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the molluscicide metaldehyde in or on food commodities, as follows:

Commodity	Parts per million
Artichoke, globe .....	0.07
Berry group 13 .....	0.15
Cactus .....	0.07
Fruit, citrus, group 10 .....	0.26
Lettuce .....	1.73
Strawberry .....	6.25
Tomato .....	0.24
Vegetable, brassica, leafy, group 5 .....	2.5
Watercress .....	3.2

- (b) *Section 18 emergency exemptions.* [Reserved]
- (c) *Tolerances with regional registrations.* [Reserved]
- (d) *Indirect or inadvertent residues.* [Reserved]

27. Section 180.540 is revised to read as follows:

**§ 180.540 Fenitrothion; tolerances for residues.**

(a) *General.* A tolerance is established for residues of the insecticide fenitrothion, *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate, from the postharvest application of the insecticide to stored wheat in Australia, in or on the following food commodity:

Commodity	Parts per million
Wheat, gluten <sup>1</sup> .....	3.0

<sup>1</sup> There are no U.S. registrations on food commodities since 1987.

- (b) *Section 18 emergency exemptions.* [Reserved]
- (c) *Tolerances with regional registrations.* [Reserved]
- (d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. E8-12374 Filed 6-3-08; 8:45 am]

BILLING CODE 6560-50-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 700**

**RIN 0648-AV53**

**Magnuson-Stevens Act Provisions; Proposed Environmental Review Process for Fishery Management Actions; Meeting Announcements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** NMFS announces three public meetings to solicit comments on the proposed rule that would revise and update the NMFS procedures for complying with the National Environmental Policy Act (NEPA) in the context of fishery management actions developed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** The meetings will be held on June 25 in Washington, D.C. from 1:30 p.m. to 3:30 p.m. Eastern time; on July 15 in St. Petersburg, FL from 6 pm to 8 p.m. Eastern time; and on July 24 in Seattle, WA from 1:30 p.m. to 3:30 p.m., Pacific time.

**ADDRESSES:** The meetings will be held at the following locations:

Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20503; telephone: 202 395 5750.

National Marine Fisheries Service, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone: 727-824-5301.

Hilton Seattle Airport & Conference Center, 17620 International Boulevard, Seattle, WA 98188; telephone: 206-244-4800.

**FOR FURTHER INFORMATION CONTACT:**

Steve Leathery at (301) 713-2239 or via email at [steve.leathery@noaa.gov](mailto:steve.leathery@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On May 14, 2008, NMFS published a proposed rule in the **Federal Register** (73 FR 27998) that would revise and update the NMFS procedures for complying with the NEPA in the context of fishery management actions developed pursuant to the Magnuson-Stevens Act. These regulations are modeled on the Council of Environmental Quality (CEQ) regulations implementing the procedural provisions of NEPA, 40 CFR parts 1500-1508, with specific revisions to the existing NMFS procedures made pursuant to the Magnuson-Stevens Fishery Conservation and Management

Reauthorization Act (MSRA). The procedures are designed to conform to the timelines for review and approval of fishery management plans and plan amendments developed pursuant to the Magnuson-Stevens Act. Further, these procedures are intended to integrate applicable environmental analytical procedures, including the timeframes for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to the MSA in order to provide for timely, clear, and concise analysis that is useful to decisionmakers and the public, reduce extraneous paperwork, and effectively involve the public. NMFS is holding these public

meeting to solicit public comments on the proposed rule.

**Special Accommodations**

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other aids, and requests for special accommodations or needs should be directed to Steve Leathery at (301) 713-2239 at least 5 business days in advance of the meeting date.

**Authority:** 16 U.S.C. 1854(i)

Dated: May 30, 2008.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

[FR Doc. E8-12505 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-22-S**

# Notices

Federal Register

Vol. 73, No. 108

Wednesday, June 4, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Board for International Food and Agricultural Development One Hundred and Fifty-Fourth Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and fifty-fourth meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:45 a.m. to 4 p.m. on June 17, 2008 at the National Press Club located at 529 14th St., NW., Washington, DC. The venue will be the 1st Amendment Room which is located on the 13th floor of the National Press Club. "Global Food Prices and Policy Actions" is the theme of BIFAD's June meeting.

Dr. Robert Easter, Chairman of BIFAD, will preside over the proceedings. Dr. Easter is Dean of the College of Agriculture, Consumer and Environment Sciences at the University of Illinois.

The morning session will include the Board's special study on "Defining a Title XII Activity", and the results from BIFAD's recent Conference of Deans, which emphasized "Higher Education on a New Stage in Global Agricultural Development." The conference was held on April 30, 2008. Highlighting the morning session will be the presentation entitled; "Food Prices: The What, Who, and How of Proposed Policy Actions." This will be delivered by Dr. John Hoddinott, Deputy Division Director, International Food Policy Research Institute, Washington, DC. This presentation will be followed by a discussion on the Board's "White Paper", and with particular reference to BIFAD's recommendations to USAID's senior leadership.

The afternoon session will shift to technical topics with reports from the Strategic Partnership for Agricultural Research and Education (SPARE).

SPARE is BIFAD's analytical sub-committee. This session will be led by Dr. Robert Paarlberg, member of the SPARE committee. Dr. Paarlberg will report on SPARE's review of the Collaborative Research Support Program (CRSP) guidelines, and SPARE's review and pending revisions to USAID's ADS 216 as related to implementation of Title XII. A progress report on the procurement of USAID's new Horticultural CRSP will also be presented.

The Board and SPARE meetings are open to the public. The Board welcomes open dialog to promote greater focus on critical issues facing USAID and international agriculture.

Those wishing to attend the meeting or obtain additional information about BIFAD should contact Dr. Ronald S. Senykoff, the Designated Federal Officer for BIFAD. Write him in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture, Bureau for Economic Growth, Agriculture and Trade, 1300 Pennsylvania Avenue, NW., Room 2.11-085, Washington, DC 20523-2110 or telephone him at (202) 712-0218 or fax (202) 216-3010.

**Ronald S. Senykoff,**

*USAID Designated Federal Officer for BIFAD, Office of Agriculture and Food Security, Bureau for Economic Growth, Agriculture & Trade, U.S. Agency for International Development.*

[FR Doc. E8-12470 Filed 6-3-08; 8:45 am]

**BILLING CODE 6116-01-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

#### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to VMRD, Inc. of Pullman, Washington, an exclusive license to U.S. Patent No. 5,171,685, "Cloning Of The Babesia Bovis 60KD Antigen", issued on December 15, 1992.

**DATES:** Comments must be received within thirty (30) days of the date of

publication of this Notice in the **Federal Register**.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

**FOR FURTHER INFORMATION CONTACT:** June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as VMRD, Inc. of Pullman, Washington has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Richard J. Brenner,**

*Assistant Administrator.*

[FR Doc. E8-12452 Filed 6-3-08; 8:45 am]

**BILLING CODE 3410-03-P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### Public Hearing on New Entrant's 2008 Crop Cane Sugar Marketing Allotment

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Commodity Credit Corporation (CCC) will hold a public hearing to receive comments on providing an allocation to a new entrant sugarcane processor in Louisiana and possible impacts on existing cane processors and producers. CCC also requests comments on the evidence CCC should require from a new entrant to demonstrate eligibility for a marketing allocation.

**DATES:** The public hearing will be held Thursday, June 26, 2008, in the Howard

Johnson Maria Louisa Rienza Room, 203 East Bayou Road, Thibodaux, Louisiana 70301. The hearing will start at 9 a.m. central standard time (CST).

**ADDRESSES:** Barbara Fecso, Dairy and Sweeteners Analysis Group, Economic Policy and Analysis Staff, Farm Service Agency, USDA, 1400 Independence Avenue, SW., STOP 0516, Washington, DC 20250-0516; telephone: (202) 720-4146; fax: (202) 690-1480; e-mail: [barbara.fecso@wdc.usda.gov](mailto:barbara.fecso@wdc.usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Barbara Fecso at (202) 720-4146.

**SUPPLEMENTARY INFORMATION:** USDA will hold a public hearing as requested by Louisiana sugarcane processors regarding the application of the Andino Energy Enterprises, L.L.C., (Andino Energy) for a cane sugar marketing allocation for the 2008 crop year. Andino Energy is requesting a 2008-crop year allocation of 50,000 short tons, raw value (STRV), and subsequent increases to the allocation of 60,000 STRV for the 2009 crop, 80,000 STRV for the 2010 crop, 100,000 STRV for the 2011 crop, and 120,000 STRV for the 2012 crop.

Section 359d(b)(1)(E) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(b)(1)(E)), as amended, authorizes CCC to provide a sugarcane processor, who begins processing on or after May 13, 2002, an allocation that provides a fair, efficient, and equitable distribution of the allocations from the allotment for the State in which the processor is located. To make an allocation to a processor in Louisiana, a proportionate share State, the Secretary establishes proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations. CCC must consider the adverse effects on existing cane processors and producers in mainland States when determining whether a new entrant processor allocation is warranted. Also, prior to the cane sugar allotment establishment, Andino Energy must provide satisfactory evidence that it has a viable processing facility, an adequate sugarcane supply, and a market for the cane sugar product. If approved, the new sugarcane allocation will be subtracted, on a pro rata basis, from the allocations otherwise provided to each Louisiana cane processor when the 2008 crop allocations are determined by USDA.

CCC will use this hearing to collect comments on (1) any adverse effects that the provisions of an allocation to Andino Energy may have on existing cane processors and producers and (2) the evidence CCC should require from a new entrant to demonstrate the ability

to process, produce, and market raw cane sugar. Attendance is open to all interested parties.

The hearing and any results from it will be subject to new regulations that will be published to implement the sugar provisions of the Food, Conservation, and Energy Act of 2008 (popularly known as the "2008 Farm Bill"), Pub. L. 110-234, enacted on May 22, 2008. There are no current regulations that specify a particular amount of advance notice for the hearing. The new law, as to allotments, is much the same as the old law. The hearing date and place have been set to allow a sufficient time for consideration in the normal allotment cycle and for convenience for interested parties in light of already scheduled industry meetings.

The hearing will be held on June 26, from 9 a.m. to 2 p.m. CST, in the Howard Johnson Maria Louisa Rienza Room, 203 East Bayou Road, Thibodaux, Louisiana 70301. Anyone wishing to make an oral statement may do so, time permitting. Comments will be limited to 5 minutes. A signup sheet for oral statements will be available at the entrance of the meeting room one hour before the hearing begins. Oral statements will be made in the order the request was received. Anyone wishing to make a written statement in lieu of an oral statement should send their statement to Barbara Fecso, Dairy and Sweeteners Analysis Group, Economic Policy and Analysis Staff, Farm Service Agency, USDA, 1400 Independence Avenue, SW., STOP 0516, Washington, DC 20250-0516; telephone: (202) 720-4146; fax: (202) 690-1480; e-mail: [barbara.fecso@wdc.usda.gov](mailto:barbara.fecso@wdc.usda.gov). Statements must be received by close of business on June 26, 2008.

Persons with disabilities who require special accommodations to attend or participate in the meetings should contact Barbara Fecso.

Signed in Washington, DC on May 30, 2008.

**Glen L. Keppy,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. E8-12453 Filed 6-3-08; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request—State Administrative Expense Funds Regulations

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collections. The proposed collection is a revision of a currently approved collection related to State administrative expense funds expended in the operation of the Child Nutrition Programs administered under the Child Nutrition Act of 1966.

**DATES:** Written comments must be submitted on or before August 4, 2008.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Ms. Melissa Rothstein, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 636, Alexandria, Virginia 22302. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 640.

All responses to this notice will be summarized and included in the request

for OMB approval, and will become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of this information collection form and instruction should be directed to Ms. Melissa Rothstein at (703) 305-2590.

**SUPPLEMENTARY INFORMATION:**

*Title:* State Administrative Expense Funds Regulations.

*OMB Number:* 0584-0067.

*Form Number(s):* FNS-74, FNS-525.

*Expiration Date:* October 31, 2008.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* Section 7 of the Child Nutrition Act of 1966 (Pub. L. 89-642), 42 U.S.C. 1776, authorizes the Department to provide Federal funds to State Agencies (SAs) for administering the Child Nutrition Programs. State Administrative Expense Funds (SAE), 7 CFR Part 235, sets forth procedures and recordkeeping requirements for use by SAs in reporting and maintaining records of their needs and uses of SAE funds.

*Affected Public:* State Agencies.

*Estimated Number of Respondents:* 87 respondents.

*Average Number of Responses per Respondent:* 2,052 responses.

*Estimated Time per Response:* 2.27 hours.

*Estimated Total Annual Burden on Respondents:* 14,783 burden hours.

Dated: May 29, 2008.

**Thomas J. O'Connor,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. E8-12411 Filed 6-3-08; 8:45 am]

**BILLING CODE 3410-30-P**

**DEPARTMENT OF COMMERCE**

**Foreign-Trade Zones Board**

**(Docket 36-2008)**

**Foreign-Trade Zone 106 -- Oklahoma City, Oklahoma, Application for Expansion**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of the Greater Oklahoma City Area, grantee of Foreign-Trade Zone (FTZ) 106, requesting authority to expand its zone to include an additional site in Mustang, Oklahoma. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 28, 2008.

FTZ 106 was approved by the Board on September 14, 1984 (Board Order 271, 49 FR 37133, 9/21/84) and expanded on December 7, 1989 (Board Order 455, 54 FR 51441, 12/15/89), on February 10, 2000 (Board Order 1078, 65 FR 8337, 2/18/00), and on September 28, 2007 (Board Order 1529, 72 FR 56722, 10/04/07). The general-purpose zone currently consists of the following sites: *Site 1* (876 acres) -- within the 6,700-acre Will Rogers World Airport Complex; *Site 2* (6 acres) -- 106,000 square foot distribution and storage warehouse located at 5001 S.W. 36th Street, Oklahoma City, adjacent to the Will Rogers World Airport; *Site 3* (5 acres) -- Mid America Business Park I, 6205 South Sooner, Oklahoma City; *Site 4* (50 acres) -- Mid America Business Park II, Mid America Boulevard, Oklahoma City; *Site 7* (110 acres) -- Western Heights Properties industrial park located south of SW 29 between South Rockwell and Council, Oklahoma City; *Site 8* (30 acres) -- Will Rogers Airport NE, Oklahoma City; *Site 10* (43 acres) -- Kelley Avenue International Trade Center, south of 15th between Kelley Avenue and AT&SF Railroad, Edmond; *Site 12* (26 acres) -- ICON Center Industrial Park, 300 East Arlington, Ada; and, *Site 13* (308 acres) -- within the 401 acre Guthrie Edmond Regional Airport, 520 Airport Road, Guthrie.

The applicant is now requesting to expand the zone to include an additional site in Mustang: *Proposed Site 14* (19 acres) at the multi-tenant facility of Industrial Gasket, Inc. dba International Group (IG), located at 720 South Sara Road in Mustang. The site is owned by IG.

In accordance with the Board's regulations, Christopher Kemp of the FTZ staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is August 4, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 18, 2008).

A copy of the application and accompanying exhibits will be available at each of the following addresses: U. S. Department of Commerce Export Assistance Center, 301 N.W. 63rd Street, Suite 330, Oklahoma City, Oklahoma 73116; and, Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of

Commerce, 1401 Constitution Avenue, NW, Washington, D.C., 20230. For further information contact Christopher Kemp at christopher\_kemp@ita.doc.gov or (202) 482-0862.

Dated: May 28, 2008.

**Pierre V. Duy,**

*Acting Executive Secretary.*

[FR Doc. E8-12462 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**Foreign-Trade Zones Board**

**(Docket 37-2008)**

**Foreign-Trade Zone 106 -- Oklahoma City, Oklahoma, Application for Manufacturing Authority, Industrial Gasket, Inc./International Group (Metal Fabrication)**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of the Greater Oklahoma City Area, grantee of Foreign-Trade Zone (FTZ) 106, requesting manufacturing authority on behalf of Industrial Gasket, Inc. (dba International Group) (IG) at the company's facility within *Proposed Site 14* of FTZ 106 in Mustang, Oklahoma (FTZ Docket 36-2008). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 28, 2008.

The IG facility (26 employees) is located at 720 South Sara Road, in Mustang, and includes one 60,000 sq. ft. building. The facility is used for manufacturing activity involving metal fabrication, stamping, machining, welding and assembly activities of customized gaskets, seals and stamping products comprised of various metals and rubber materials. IG is requesting to manufacture industrial electric lighting fixtures and certain motor vehicles parts (tubing, flanges, seals, instrument panel assemblies, electrical boxes) under FTZ procedures (HTSUS 8708.99, 9405.40), with duty rates of 2.5 to 6 percent. At full capacity the facility could manufacture up to 5,250,000 units annually. Materials sourced from abroad (approximately 25 percent of the value of the finished product) include: spring and lock washers (7318.21); aluminum bars, rods and profiles (7604.10); aluminum plates, sheets and strip (7606.11); aluminum tubes and pipes (7608.10); and, zinc bars, rods, profiles

and wire (7904.00) (duty rates: duty-free to 5.8 percent).

FTZ procedures would exempt IG from customs duty payments on the foreign components used in export production. Approximately 25 percent of production could be exported. On domestic sales, the company could choose the lower duty rate that applies to the finished product (2.5 to 6 percent) for the imported components used in manufacturing. The majority of IG's savings will come from the elimination of duties on materials that become scrap/waste during manufacturing. IG may also realize savings related to direct delivery and weekly customs entry procedures. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, Christopher Kemp of the FTZ staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is August 4, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 18, 2008).

A copy of the application and accompanying exhibits will be available at each of the following addresses: U. S. Department of Commerce Export Assistance Center, 301 N.W. 63rd Street, Suite 330, Oklahoma City, Oklahoma 73116; and, Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, D.C., 20230. For further information contact Christopher Kemp at christopher\_kemp@ita.doc.gov or (202) 482-0862.

Dated: May 28, 2008.

**Pierre V. Duy,**

*Acting Executive Secretary.*

[FR Doc. E8-12463 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

#### Docket 35-2008

#### Foreign-Trade Zone 147 - Reading, Pennsylvania, Application for Reorganization and Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone Corporation of Southern Pennsylvania, grantee of Foreign-Trade Zone 147, requesting authority to expand and reorganize its zone in the Reading, Pennsylvania area, adjacent to the Harrisburg Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 27, 2008.

FTZ 147 was approved by the Board on June 28, 1988 (Board Order 378; 53 FR 26094, 7/11/88). The zone was subsequently expanded on February 25, 1997 (Board Order 871) and November 3, 2005 (Board Order 1417). FTZ 147 currently consists of 14 sites (4,794 acres) in south-central Pennsylvania.

The applicant is now requesting authority to reorganize and expand the general-purpose zone by deleting Site 4 Parcel A (595-acre Baker Refractories site) and Parcel C (37-acre Emons Bids Rail Yard property, York) and adding four new sites as follows: *Proposed Site 16:* (134 acres) located at 1200 South Antrim Way, Greencastle, Franklin County; *Proposed Site 17:* (256 acres) United Business Park, 7810 Olde Scotland Road, Shippensburg; *Proposed Site 18:* (208 acres) Key Logistics Park, Centerville Road, Newville; and, *Proposed Site 19:* (292 acres) I-81 Commerce Park, Walnut Bottom Road, Shippensburg, Cumberland County, Pennsylvania.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Claudia Hausler of the FTZ Staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 4, 2008. Rebuttal comments in response to material submitted during the foregoing period

may be submitted during the subsequent 15-day period to August 18, 2008.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Export Assistance Center, 2 So. George Street, Cumberland House, Millersville, PA 17551-0302  
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2111, 1401 Constitution Avenue NW, Washington, DC 20230

For further information contact Claudia Hausler at  
Claudia\_Hausler@ita.doc.gov or (202)482-1379.

Dated: May 27, 2008.

**Pierre V. Duy,**

*Acting Executive Secretary.*

[FR Doc. E8-12458 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

#### [Docket 38-2008]

#### Foreign-Trade Zone 50 Long Beach, California, Application for Subzone, Michelin North America, Inc. (Tire and Tire Accessories Distribution), San Bernardino, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Port of Harbor Commissioners of the Port of Long Beach, grantee of FTZ 50, requesting special-purpose subzone status for the tire and tire accessories warehouse/distribution facility of Michelin North America, Inc. (Michelin), in San Bernardino, California. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 28, 2008.

The proposed subzone facility (37.6 acres, 1 building, 801,000 sq. ft. of enclosed space) is being constructed at 3525 North Mike Daley Drive, San Bernardino, California. The facility will be used for quality control, labeling, marking, warehousing, and distribution of foreign and domestic tires for the U.S. and export markets. None of the activities which Michelin is proposing to perform under zone procedures would constitute manufacturing or processing under the FTZ Board's regulations. The application indicates that FTZ procedures would be used to support Michelin's California-based distribution activity in competition with facilities abroad.

FTZ procedures would exempt Michelin from customs duty payments on foreign products that are re-exported (some 5–10% of shipments). On its domestic shipments, duty payments would be deferred until the products are entered for consumption. The company may also realize certain logistical benefits related to the use of direct delivery and weekly customs entry procedures. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, Diane Finver of the FTZ staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 4, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 18, 2008).

A copy of the application will be available for public inspection at each of the following locations: U.S. Department of Commerce Export Assistance Center, 11150 West Olympic Boulevard, Suite 975, Los Angeles, CA 90064; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, D.C. 20230–0002.

For further information, contact Diane Finver at [Diane\\_Finver@ita.doc.gov](mailto:Diane_Finver@ita.doc.gov) or (202) 482–1367.

Dated: May 28, 2008.

**Pierre V. Duy,**

*Acting Executive Secretary.*

[FR Doc. E8–12487 Filed 6–3–08; 8:45 am]

**BILLING CODE 3510–DS–S**

Foreign–Trade Zones (FTZ) Board submitted by the City of Tampa, grantee of FTZ 79, requesting temporary/interim manufacturing (T/IM) authority, on behalf of Tampa Bay Shipbuilding and Repair Company, to construct and repair cruise ships and ferries (HTSUS 8901.90), double–hulled liquid barges and articulating tug barges (HTSUS 8901.20), fishing boats (8902.00), tug boats (8904.00), dredgers (8905.10), offshore production platforms (8905.20), and floating docks (8905.90) under FTZ procedures within FTZ 79 Site 5 in Tampa, Florida.

The application has been processed in accordance with T/IM procedures, as authorized by FTZ Board Orders 1347 (69 FR 52857, 8–30–2004) and 1480 (71 FR 55422, 9–22–2006), including notice in the **Federal Register** inviting public comment (72 FR 62429, 11–5–2007). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. The foreign–origin components approved for this activity are: anchor chain (7315.81), aluminum beams (7610.90), flexible tubing (8307.10), diesel engines (8408.10) and parts (8409.91, 8409.99), pumps (8413.11), turbochargers (8414.59), heat exchange/cooling units (8419.50), centrifuges (8421.19), filters (8421.23, 8421.29, 8421.31), fire suppression equipment (8424.20, 9032.89), rudders (8479.89), bow thrusters (8501.53), valves (8481.10, 8481.20, 8481.30, 8481.40, 8481.80), stern tubes (8483.30), reduction gears (8483.40), transmission shaft grounding systems and seals (8483.90), generators (8501.63) and parts (8503.00), transformers (8504.34), speed drive controllers (8504.40), overflow alarms (8531.90), ACCU automated/steering systems (8537.10), generator sets (8502.39), and liquid flow measurement instruments (9026.10) (duty rates: free - 5.7%).

Pursuant to the authority delegated to the FTZ Board Executive Secretary in the above–referenced Board Orders, the application is approved, effective this date, until May 29, 2010, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: May 29, 2008.

**Pierre V. Duy,**

*Acting Executive Secretary.*

[FR Doc. E8–12484 Filed 6–3–08; 8:45 am]

**BILLING CODE 3510–DS–S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received requests to revoke two antidumping duty orders in part.

**DATES:** *Effective Date:* June 4, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2002), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Certain Steel Concrete Reinforcing Bars from Turkey with respect to two exporters and Magnesium Metal from the Russian Federation with respect to one exporter.

**Initiation of Reviews:**

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2009.

**DEPARTMENT OF COMMERCE**

**Foreign–Trade Zones Board**

**T–1–2008**

**Foreign–Trade Zone 79 - Tampa, FL, Application for Temporary/Interim Manufacturing Authority, Tampa Bay Shipbuilding and Repair Company (Shipbuilding), Notice of Approval**

On April 8, 2008, an application was filed by the Executive Secretary of the

	Period to be reviewed
Russia: Magnesium Metal, A–821–819 .....	4/1/07–3/31/08

	Period to be reviewed
PSC VSMPO–AVISMA Corporation. Solikamsk Magnesium Works. The People's Republic of China: Brake Rotors, <sup>1</sup> A–570–846 ..... National Automotive Industry Import & Export Corporation or China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Shandong Laizhou CAPCO Industry ("Laizhou CAPCO"). Laizhou CAPCO, and manufactured by any company other than Laizhou CAPCO. Laizhou Auto Brake Equipment Co., Ltd. Longkou Haimeng Machinery Co., Ltd. Laizhou SanLi. Qingdao Gren Co. Yantai Winhere Auto-Part Manufacturing Co., Ltd. Zibo Botai Manufacturing Co., Ltd. Laizhou Hongda Auto Replacement Parts Co., Ltd. Laizhou Luda Sedan Fittings Company, Ltd. Qingdao Meita Automotive Industry Co., Ltd. Longkou TLC Machinery Co., Ltd. Zibo Golden Harvest Machinery Limited Company. Xianghe Zichen Casting Company, Ltd. Laizhou Luqi Machinery Co., Ltd. Longkou Jinzheng Machinery Co. Dixion Brake System (Longkou) Ltd. Laizhou Wally Automobile Co., Ltd. Longkou Orient Autoparts Co., Ltd.	4/1/07–3/31/08
The People's Republic of China: Certain ActivatedCarbon, <sup>2</sup> A–570–904 ..... Actview Carbon Technology Co., Ltd. Alashan Yongtai Activated Carbon Co., Ltd. Beijing Hibridge Trading Co., Ltd. Beijing Pacific Activated Carbon Products Co., Ltd. Calgon Carbon (Tianjin) Co., Ltd. Changji Hongke Activated Carbon Co., Ltd. China Nuclear Ningxia Activated Carbon Plant. Da Neng Zheng Da Activated Carbon Co., Ltd. Datong Carbon Corporation. Datong Changtai Activated Carbon Co., Ltd. Datong City Zouyun County Activated Carbon Co., Ltd. Datong Forward Activated Carbon Co., Ltd. Datong Fu Ping Activated Carbon Co., Ltd. Datong Fuping Activated Carbon Co., Ltd. Datong Guanghua Activated Carbon Co., Ltd. Datong Hongtai Activated Carbon Co., Ltd. Datong Huanqing Activated Carbon Co., Ltd. Datong Huibao Activated Carbon Co., Ltd. Datong Huiyuan Cooperative Activated Carbon Plant. Datong Jugiang Activated Carbon Co., Ltd. Datong Kangda Activated Carbon Factory. Datong Locomotive Coal & Chemicals Co., Ltd. Datong Municipal Yunguang Activated Carbon Co., Ltd. Datong Runmei Activated Carbon Factory. Datong Tianzhao Activated Carbon Co., Ltd. DaTong Tri-Star & Power Carbon Plant. Datong Weidu Activated Carbon Co., Ltd. Datong Yunguang Chemicals Plant. Datong Zuoyun. Dushanzi Chemical Factory. Fangyuan Carbonization Co., Ltd. Fu Yuan Activated Carbon Co., Ltd. Hebei Foreign Trade Advertisement Company (and its successor company, Hebei Shenglun Import and Export Group Company). Hegongye Ninxia Activated Carbon Factory. Hongke Activated Carbon Co., Ltd. Huairen Jinbei Chemical Co., Ltd. Jacobi Carbons AB and its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc. Jiaocheng Xinxin Purification Material Co. Ltd. Jilin Bright Future Chemicals Company, Ltd. Jilin Province Bright Future Industry and Commerce Co., Ltd. Jing Mao (Dongguan) Activated Carbon Co., Ltd. Ningxia Baota Activated Carbon Co., Ltd. Ningxia Fengyuan Activated Carbon Co., Ltd. Ningxia Guanghua A/C Co., Ltd. Ningxia Guanghua Activated Carbon Co., Ltd. Ningxia Guanghua Chemical Activated Carbon Co., Ltd. Ningxia Guanghua Cherishment Activated Carbon Co., Ltd. Ningxia Haoqing Activated Carbon Co., Ltd.	10/11/06–3/31/08

	Period to be reviewed
Ningxia Honghua Carbon Industrial Corporation. Ningxia Huahui Activated Carbon Co., Ltd. Ningxia Huinong Xingsheng Activated Carbon Co., Ltd. Ningxia Lingzhou Foreign Trade Co., Ltd. Ningxia Luyuangheng Activated Carbon Co., Ltd. Ningxia Mineral & Chemical Limited. Ningxia Pingluo County YaoFu Activated Carbon Factory. Ningxia Pingluo County Yaofu Activated Carbon Plant. Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd. Ningxia Pingluo Yaofu Activated Carbon Factory. Ningxia Tianfu Activated Carbon Co., Ltd. Ningxia Xingsheng Coal and Active Carbon Co., Ltd. Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd. Ningxia Yirong Alloy Iron Co., Ltd. Ninxia Tongfu Coking Co., Ltd. Nuclear Ningxia Activated Carbon Co., Ltd. Panshan Import and Export Corporation. Pingluo Xuanzhong Activated Carbon Co., Ltd. Pingluo Yu Yang Activated Carbon Co., Ltd. Shanxi Bluesky Purification Material Co., Ltd. Shanxi DMD Corporation. Shanxi Industry Technology Trading Co., Ltd. Shanxi Newtime Co., Ltd. Shanxi Qixian Foreign Trade Corporation. Shanxi Sincere Industrial Co., Ltd. Shanxi Xiaoyi Huanyu Chemicals Co., Ltd. Shanxi Xinhua Activated Carbon Co., Ltd. Shanxi Xinhua Chemical Co., Ltd. Shanxi Xuanzhong Chemical Industry Co., Ltd. Tangshan Solid Carbon Co., Ltd. Tianjin Jacobi International Trading Co., Ltd. Tianjin Maijin Industries Co., Ltd. Tonghua Bright Future Activated Carbon Plant. Tonghua Xinpeng Activated Carbon Factory. United Manufacturing International (Beijing) Ltd. Xi Li Activated Carbon Co., Ltd. Xi'an Shuntong International Trade & Industrials Co., Ltd. Xingtai Coal Chemical Co., Ltd. Xinhua Chemical Co., Ltd. Yinchuan Lanqiya Activated Carbon Co., Ltd. Yuyang Activated Carbon Co., Ltd. Zuoyun Bright Future Activated Carbon Plant.	
The People's Republic of China: Magnesium Metal, A-570-896 .....	4/1/07-3/31/08
Tianjin Magnesium International Co., Ltd.	
Turkey: Certain Steel Concrete Reinforcing Bars, A-489-807 .....	4/1/07-3/31/08
Ege Celik Endustrisi Sanayi ve Ticaret A.S./Ege Dis Ticaret A.S. Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. Izmir Demir Celik Sanayi A.S. Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. Kaptan Demir Celik Endustrisi ve Ticaret A.S. and Kaptan Metal Dis Ticaret ve Nakliyat A.S. Kroman Celik Sanayi A.S. Nursan Celik Sanayi ve Haddecilik A.S./Nursan Dis Ticaret A.S.	
<b>Countervailing Duty Proceeding</b>	
None.	
<b>Suspension Agreements</b>	
None.	

<sup>1</sup> If one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

<sup>2</sup> If one of the named companies does not qualify for a separate rate, all other exporters of certain activated carbon from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a

determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the

notice of initiation of the review, will determine, consistent with *FAG Italia v. United States*, 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the

review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures* (73 FR 3634). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 29, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8-12468 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-X102

#### Endangered Species and Marine Mammals; File No. 10014-01

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permit amendment.

**SUMMARY:** Notice is hereby given that the New Jersey Department of Environmental Protection (NJDEP), Division of Science, Research and Technology, P.O. Box 409, Trenton, NJ 08625-0409 has been issued a permit amendment to take marine mammals for purposes of scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources,

NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9300; fax (978)281-9394.

**FOR FURTHER INFORMATION CONTACT:**

Patrick Opay or Kate Swails, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On April 9, 2008, notice was published in the **Federal Register** (73 FR 19194) that a request to amend Permit No. 10014 had been submitted by the above-named organization. The requested permit amendment has been issued under the authority of the the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit amendment authorizes the NJDEP to take up to 2,500 common dolphins (*Delphinus delphis*), 3,200 bottlenose dolphins (*Tursiops truncatus*), and 1,280 harbor porpoises (*Phocoena phocoena*) annually through December 31, 2012. The study area would continue to include U.S. waters offshore of southern New Jersey out to a distance of 20 nautical miles.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of this permit amendment was based on a finding that it is consistent with the purposes and policies of the MMPA and ESA. It is believed that the research will further a bona fide scientific purpose and does not involve unnecessary duplication.

Dated: May 30, 2008.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E8-12517 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XD74

#### Taking Marine Mammals Incidental to Specified Activities; Offshore Exploratory Drilling in the Beaufort Sea off Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of application and proposed incidental take authorization; request for comments.

**SUMMARY:** NMFS has received an application from Shell Offshore, Inc. (SOI) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting open-water offshore exploratory drilling on Outer Continental Shelf (OCS) oil lease blocks in the Beaufort Sea off Alaska. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to SOI to incidentally take, by Level B harassment, small numbers of several species of marine mammals during the open water drilling program in 2008 and 2009.

**DATES:** Comments and information must be received no later than July 7, 2008.

**ADDRESSES:** Written comments on the application should be addressed to Mr. P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. The mailbox address for providing email comments is [PR1.XD74@noaa.gov](mailto:PR1.XD74@noaa.gov). Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the application (containing a list of the references used in this document) and NMFS' 2007 Environmental Assessment (EA) on this action may be obtained by writing to this address or by telephoning the contact listed here and are also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#iha>.

Documents cited in this document, that are not available through standard public library access methods, may be viewed, by appointment, during regular business hours at this address.

**FOR FURTHER INFORMATION CONTACT:**

Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713-

2289 or Brad Smith, NMFS, Alaska Regional Office 907-271-3023.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance which

(i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

#### Summary of Request

##### Open Water Exploration Drilling

On February 24, 2008, SOI submitted to NMFS a revision to its October 19, 2007, IHA application to take small numbers of marine mammals, by harassment, incidental to conducting open-water offshore exploratory drilling on Outer Continental Shelf (OCS) oil lease blocks in the Beaufort Sea off Alaska for a 1-year period in 2008 and 2009. As issuance of an IHA is limited to one-year, NMFS anticipates that SOI would submit a new IHA application for this activity to carry its program through to the end of the 2009 open-water season.

NMFS notes that SOI's original IHA application (October 19, 2007) was for the incidental taking of marine mammals, by Level B behavioral harassment, while conducting a two-ship drilling program and a geotechnical program. A description of SOI's original work plan can be found in NMFS' proposed 2007 IHA application notice by SOI (72 FR 17864, April 10, 2007) and is not repeated here. A copy of the October 19, 2007, IHA application is available upon request and a copy of the revised application is available on line or upon request (see ADDRESSES).

In its revised 2008 IHA application, SOI states that in 2008 it would employ only a single drilling unit, the floating, portable marine vessel, called the *Kulluk* in order to conduct a top-hole drilling program at Sivulluq. SOI acquired this OCS lease site during the MMS Lease Sale (LS) 195 in March 2005. The highest priority exploratory targets for 2008/2009 are located offshore of Pt. Thomson and Flaxman Island. However, given the locations of open water conditions during 2008 and permit/authorization stipulations, SOI may elect to re-prioritize well locations on one, or more of their OCS leases (see Figure 1 in SOI's IHA application). Re-prioritizing of drilling prospects due to ice conditions may cause drilling to occur at other Beaufort Sea OCS leases held by SOI, but only those that have been pre-cleared by MMS. For this activity, therefore, the central Beaufort Sea meets the "specified geographic region" requirement of section 101(a)(5)(D) of the MMPA.

The *Kulluk* will be accompanied by two ice management vessels or arctic class anchor handlers, and possibly an estimated two support vessels. One of the arctic class supply vessels may make periodic re-supply trips from Tuktoyaktuk, Northwest Territories, Canada to the rig. The ice management vessels or arctic class anchor handlers which likely will be used are: the M/V

*Vladimir Ignatjuk*, and a vessel as yet to be contracted, but similar to the *Vladimir Ignatjuk*. If one or more of these specific vessels are not used, then similar vessel(s) will be substituted. The re-supply effort will be undertaken by the M/V *Jim Kilabuk*, and an additional multipurpose support vessel similar to the *Kilabuk*.

Other vessels in addition to the *Kulluk*, ice management/ anchor handling vessels, and drilling support vessels may include the arctic-class barge, the *Endeavor* (or similar vessel), plus an associated tug, and the *Norseman II* (or similar vessel), which will support the marine mammal monitoring and mitigation program in the Beaufort Sea during the 2008 open water season. Specifications for the *Kulluk*, and some prospective ice management vessels can be found in Attachment A of SOI's 2008 IHA application (see ADDRESSES). Helicopter aircraft will also be used during the drilling season, helping with crew change support, provision re-supply and Search-and-Rescue operations. In addition, fixed-wing aircraft will be used for marine mammal surveillance over-flights. The aircraft operations will principally be based in Deadhorse, AK.

The *Kulluk* is 81 meters (m) (266 feet (ft)) in diameter with an 11.5 m (38 ft) draft when drilling. It is moored using 12 anchor wires (3.5 inches diameter), each connected to a 15 or 20-ton anchor. During the non-drilling season (approximately from November, 2007 to June, 2008), the *Kulluk* overwintered in the Canadian Beaufort Sea. It is attended at its overwinter location by an ice management vessel.

##### Open Water Exploration Drilling—Tophole Sections

SOI's Beaufort Sea open water exploration drilling program includes plans to excavate/drill only the tophole sections for three exploratory well locations. A tophole section typically includes excavation and completion of a mudline cellar (MLC) and drilling and setting of two or three deeper well sections. MLC completions are an essential component of drilling exploration wells in the Arctic Ocean where ice keel gouge might occur. The MLC is a large diameter excavation into which the blow-out preventer and other sub-seabottom wellhead equipment are installed below the depth of possible ice scour. MLCs avoid damage to wellhead equipment possibly caused by the keel of an ice floe excavating into the sea bottom. At times during drilling, the floating drilling rig may need to disconnect from this sub-sea bottom equipment and move away, and this

equipment remains to shut in the well. MLC excavations are typically 20 ft (6.1 m) in diameter and 40 ft (12.2 m) deep. Excavation of a MLC is done by a large diameter bit that is turned by hydraulic motors. SOI plans to excavate MLCs and complete tophole sections at Sivulliq during 2008 (see Figure 1 in SOI's IHA application).

The MLC and the next two or three deeper well sections collectively extend to approximately 3,000 ft (914 m) below the seafloor, and are referred to collectively as the "tophole" section. Topholes are located thousands of feet above any prospective liquid hydrocarbon-bearing strata. As a result, there is no measurable risk of encountering liquid hydrocarbons during the drilling of these topholes.

As mentioned, SOI's priority drilling prospects for the 2008 open water season occur at Sivulliq, located in Camden Bay of the Beaufort Sea. SOI anticipates that the *Kulluk* will excavate and drill tophole sections for three exploratory wells during the 2008 open water season. For its 2008 tophole section drilling program, SOI will not operate the *Kulluk* and associated vessels in Camden Bay until after the Kaktovik and Nuiqsut fall bowhead whale subsistence harvests are completed. Anticipated demobilization of the *Kulluk* from the Alaskan Beaufort Sea will be in November 2008. In total, it is anticipated by SOI that the tophole section drilling program will require approximately 60 days, excluding weather or other operational delays, beginning with mobilization from the Tuktoyaktuk Buoy and ending with return of the *Kulluk* to the Canadian Beaufort Sea near Tuktoyaktuk. SOI assumes approximately 50 of the 60 days of this program will include drilling, while the remaining days include rig mobilization, rig moves between locations, and rig demobilization.

SOI's plan is for the two ice management vessels to accompany the *Kulluk* from its overwintering location (in the Canadian Beaufort Sea) to Sivulliq. One of the ice-management vessels will travel north through the Chukchi Sea and east through the Beaufort Sea after July 1, 2008, before arriving in Canadian waters to assist in the *Kulluk* mobilization. After the 2008 drilling season, in November 2008, SOI expects to demobilize the *Kulluk*. One or two ice management vessels, along with various support vessels such as the *MV Jim Kilabuk*, will accompany the *Kulluk* as it travels east to the Canadian Beaufort Sea (McKinley Bay or Hershel Island). One or more of these ice management vessels may remain with

the *Kulluk* during the winter season if the rig overwinters in the Canadian Beaufort Sea. SOI's base plan for exit from the Beaufort Sea for ice management vessels which are not overwintered with the *Kulluk* is to exit the Beaufort Sea westward. However, subject to ice conditions alternate exit routes may be considered.

#### *Open Water Geotechnical Program*

The open water geotechnical program is expected to begin in July, 2008. SOI plans to bore up to 20 boreholes, each up to 500 ft (152.4 m) in depth, to obtain geotechnical data for feasibility analyses of shallow sub-sea sediments. The boreholes will be completed to depths well above any liquid hydrocarbon-bearing strata. Approximately three potential locations will be investigated at Sivulliq, as well as locations along a prospective pipeline access corridor through Mary Sachs Entrance to landfall in the vicinity of Point Thomson (see Figure 2 in SOI's IHA application). The open water geotechnical program will use borehole excavating equipment mounted on the geotech vessel to advance boreholes through a moonpool located approximately at mid-ship of the geotechnical vessel. The geotech vessel also will have an electronic cone penetrometer (CPT) mounted on it. If used, the CPT unit will collect in-situ soil/sediment sub-sea samples to approximately 150 ft (152.4 m) below the mudline.

Shallow sub-sea bottom sampling for geotechnical analyses at the Sivulliq Prospect and along the access corridor will use a seabed frame to either push a sample tube or a CPT test into the seafloor. Other bottom sediment sampling proposed includes piston coring to a maximum depth of 10 ft (3 m) sub-sea bottom, and box coring to a maximum depth of 1-ft sub-sea bottom.

SOI plans to complete the geotechnical program prior to the fall bowhead whale subsistence harvests of the communities of Kaktovik and Nuiqsut. Including operational delays, it is anticipated that geotechnical borehole drilling, CPT sampling, piston and box coring sampling may be completed in approximately 50 days of work. SOI states that it will not operate the geotechnical program in Camden Bay during the Kaktovik and Nuiqsut fall bowhead whale subsistence harvests. If SOI is unable to complete the planned geotechnical program before the onset of fall whaling for Kaktovik and Nuiqsut, SOI proposes to return to Sivulliq, and/or the prospective pipeline corridor location after the conclusion of the harvest to complete the program.

#### *Marine Mammals*

A total of three cetacean species (bowhead, gray, and beluga whales), three species of pinnipeds (ringed, spotted, and bearded seal), and one marine carnivore (polar bear) are known to occur in or near the proposed drilling areas in the U.S. Beaufort Sea. Other extra-limital species that occasionally occur in very small numbers in this portion of the U.S. Beaufort Sea include the harbor porpoise and killer whale. However, because of their rarity in this area, they are not expected to be exposed to, or affected by, any activities associated with the drilling, and are, therefore, not discussed further. The polar bear is under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) and is not discussed further in this document. A separate application for a Letter of Authorization (LOA) has been submitted to the USFWS by SOI.

The species and numbers of marine mammals likely to be found within this portion of the Beaufort Sea are listed in Table 4-1 in SOI's IHA application. A description of the biology and distribution of the marine mammal species under NMFS' jurisdiction can be found in several documents, including SOI's IHA applications, MMS' 2006 Final Programmatic EA for Arctic seismic activities, the NMFS/MMS Draft Programmatic EIS for Arctic Seismic in the Beaufort and Chukchi seas and several other documents (e.g., MMS' Final EA for Lease Sales 195 and 202). Information on those marine mammal species under NMFS jurisdiction can be found also in the NMFS Stock Assessment Reports. The 2006 Alaska Stock Assessment Report is available at: <http://www.nmfs.noaa.gov/pr/sars/region.htm>. Please refer to these documents for information on these potentially affected marine mammal species.

#### *Potential Effects of Offshore Drilling Activities on Marine Mammals*

Disturbance by drilling sounds is the principal means of taking by this activity. Drilling vessels, support vessels including ice management vessels, and aircraft may provide a potential second source of noise. The physical presence of vessels and aircraft could also lead to non-acoustic effects on marine mammals involving visual or other cues.

As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, and can generally be categorized as follows (based on Richardson *et al.*, 1995):

(1) The noise may be too weak to be heard at the location of the animal (i.e.,

lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both);

(2) The noise may be audible but not strong enough to elicit any overt behavioral response;

(3) The noise may elicit reactions of variable conspicuousness and variable relevance to the well being of the marine mammal; these can range from temporary alert responses to active avoidance reactions such as vacating an area at least until the noise event ceases;

(4) Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation), or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics, infrequent and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat;

(5) Any anthropogenic noise that is strong enough to be heard has the potential to reduce (mask) the ability of a marine mammal to hear natural sounds at similar frequencies, including calls from conspecifics, and underwater environmental sounds such as surf noise;

(6) If mammals remain in an area because it is important for feeding, breeding or some other biologically important purpose even though there is chronic exposure to noise, it is possible that there could be noise-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and

(7) Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS) in its hearing ability. For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment (called permanent threshold shift or PTS). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

The only anticipated impacts to marine mammals are associated with noise propagation from tophole section drilling activities and associated support vessels, the geotechnical program and from related aircraft

activities, including during marine mammal monitoring activities. Impacts would consist of possible temporary and short term displacement of seals and whales from ensonified zones produced by such noise sources. NMFS and SOI believe that any impacts on the whale and seal populations of the Beaufort Sea activity area are likely to be short term and transitory arising from the temporary displacement of individuals or small groups from locations they may be occupying at the time they are exposed to drilling sounds at a received level of 120 dB or greater (due to the nature of drilling and related vessel noises). In the case of bowhead whales that displacement might well take the form of a deflection of the swim paths of migrating bowheads away from (seaward of) received noise levels at significant distances from the noise source. While this deflection may not be biologically significant (as the bowheads remain within the general migration corridor), it can be significant for subsistence purposes (as will be discussed later).

#### *Potential Impact of the Activity on the Species or Stocks of Marine Mammals*

SOI states that the only anticipated impacts to marine mammals associated with drilling activities would be behavioral reactions to noise propagation from the drilling units and associated support vessels. NMFS notes however, that in addition to these sources of anthropogenic sounds, additional disturbance to marine mammals may result from aircraft overflights and the resulting visual disturbance by the drilling vessels themselves. SOI and NMFS believe, however, that the impacts would be temporary and result in only short term displacement of seals and whales from ensonified zones produced by such noise sources. Any impacts on the whale and seal populations of the Beaufort Sea activity area are likely to be short term and transitory arising from the temporary displacement of individuals or small groups from locations they may occupy at the times they are exposed to drilling sounds at the 160–190 dB (or lower) received levels. As noted, it is highly unlikely that animals will be exposed to sounds of such intensity and duration as to physically damage their auditory mechanisms. In the case of bowhead whales that displacement might well take the form of a deflection of the swim paths of migrating bowheads away from (seaward of) received noise levels. NMFS notes that, to date, studies have not been conducted to test the hypothesis that after deflection

bowheads return to the swim paths they were following prior to deflection at relatively short distances after their exposure to the received sounds.

However, there is no evidence (and little likelihood) that bowheads exposed to noise resulting from oil drilling and support activities will incur an injury to their auditory mechanisms.

Additionally, while there is no conclusive evidence that exposure to sounds exceeding 160 db have displaced bowheads from feeding activity (Richardson and Thomson, 2002), there is information that intermittent sounds (e.g., oil drilling and vessel propulsion sounds) may cause a deflection in the migratory path of whales (Malme *et al.*, 1983, 1984), but possibly not when the acoustic source is not in the direct migratory path (Tyack and Clark, 1998). Finally, there is no indication that seals are more than temporarily displaced from ensonified zones and no evidence that seals have experienced physical damage to their auditory mechanisms even within ensonified zones. As a result, the only type of incidental taking requested by SOI is that of taking by harassment due to the resultant noise from the oil drilling activity. The only sources of project created noise for the tophole section drilling will be those noises from the *Kulluk* and its support vessels, while noise from the geotechnical program will be solely from the geotech vessel. A sound source verification test will be performed on this vessel early in the season. Although the bulk of the activity will be centered in the area of tophole section drilling or geotechnical activities, potential exposures, or impacts to marine mammals also will occur as the drilling vessel, and ice management vessels, and/or geotechnical vessel mobilize to and from Camden Bay for the respective programs. These impacts were assessed previously in this document.

SOI notes in its IHA application that historical noise propagation studies were performed on the *Kulluk* (Hall *et al.*, 1994) in the Kuvlum prospect drill sites (approximately 12 mi (19.3 km) east of SOI's Sivulliq prospect) that SOI is proposing to drill during 2008 and 2009. Acoustic recording devices were established at 10 m (39 ft) and 20 m (66 ft) depths below water surface at varying distances from the *Kulluk* and decibel levels were recorded during drilling operations. There were large differences between sound propagation between the different depths. At 10-m (39-ft) water depth, the 120-dB threshold had a 0.7-km (0.43-mi) radius around the *Kulluk*. At a depth of 20 m (66 ft) below water

surface, the 120-dB threshold had a radius of 8.5 km (5.3 mi). There is no obvious explanation for the large differences in propagation at the different levels, but possible explanations include the presence of an acoustic layer due to melting ice during the sound studies and/or sound being channeled into the lower depths due to the seafloor topography. However, SOI plans for new sound propagation studies to be performed on the *Kulluk*, ice management, and geotechnical vessel, once these vessels are on locations for tophole section drilling or geotechnical activities in the Beaufort Sea. The results of these sound source verification tests will be used to establish monitoring, safety and exclusion zones for SOI's drilling and support vessels.

*Numbers of Marine Mammals Expected to Be Exposed to Noise from Drilling, Geotech and Vessel Movement Activities*

Using the marine mammal density estimates explained and presented in SOI's IHA application (Table 6-1 for tophole drilling for bowhead and beluga whales, Table 6-2 for tophole drilling for other cetaceans and seals, Table 6-6 for the *Kulluk* transit to and from Camden Bay, and Table 6-8 for SOI's geotechnical program), SOI provided estimates of the numbers of potential marine mammal sound exposures in Tables 6-3 and 6-4 for tophole drilling, Table 6-7 for the *Kulluk* transit to Camden Bay and Table 6-9 for the geotechnical program. Tables 1 (tophole drilling), 2 (transit), and 3 (geotechnical) in this document provide SOI's estimate of the number of exposures the affected stocks of marine mammals will receive

from each component of SOI's planned tophole drilling and geotechnical programs in 2008. It should be noted that these tables have been modified from those in SOI's 2008 IHA application that SOI provided to members of the public. These revisions were made to eliminate duplicate counting and to differentiate between non-authorized taking while in Canadian waters (see below). However, neither NMFS nor SOI believe that harbor porpoise or the narwhal will be affected by SOI's drilling program. SOI's estimated exposures to sounds from its drilling program are provided here. For detailed information on how SOI arrived at these estimates for noise exposures, please see SOI's 2008 IHA application (see **ADDRESSES**). Next we provide a summary of the anticipated exposure levels.

**Table 1.** Summary of the number of potential exposures of marine mammals to received sound levels in the water of  $\geq 120$  dB and ( $\geq 160$  dB) during SOI's proposed tophole drilling activities in the Beaufort Sea, Alaska, Sep – Nov 2008. Not all marine mammals will change their behavior when exposed to these sound levels.

Species	Beaufort Sea		Requested Take Authorization
	Avg.	Max.	
<b>Odontocetes</b>			
<b><i>Monodontidae</i></b>			
Beluga	11 (0)	45 (0)	<b>45 (5)</b>
Narwhal	0 (0)	0 (0)	<b>5 (5)</b>
<b><i>Phocoenidae</i></b>			
Harbor porpoise	0 (0)	1 (0)	<b>5 (5)</b>
<b>Mysticetes</b>			
<i>Bowhead whale</i> <sup>a</sup>	4315 (36)	4315 (36)	<b>4315 (36)</b>
Gray whale	0 (0)	1 (0)	<b>5 (5)</b>
<b>Total Cetaceans</b>	<b>4315 (36)</b>	<b>4316 (36)</b>	
<b>Pinnipeds</b>			
Bearded seal	33 (0)	132 (0)	<b>132 (10)</b>
Ringed seal	647 (0)	2589 (0)	<b>2589 (50)</b>
Spotted seal	6 (0)	25 (0)	<b>25 (5)</b>
<b>Total Pinnipeds</b>	<b>687 (0)</b>	<b>2747 (0)</b>	

<sup>a</sup> See text for description of bowhead whale estimate for the Beaufort Sea

**Table 2.** Estimates of the number of marine mammals in areas where maximum received sound levels in water would be  $\geq 120$  dB and ( $\geq 160$  dB) during SOI's proposed transit from Tuktoyaktuk to Camden Bay towing the *Kulluk*.

Species	Average	Maximum	Requested Take Authorization
<b>Odontocetes</b>			
<b><i>Monodontidae</i></b>			
Beluga	208 (0)	830 (4)	<b>830 (5)</b>
Narwhal	0 (0)	0 (0)	<b>5 (5)</b>
<b><i>Phocoenidae</i></b>			
Harbor porpoise	1 (0)	3 (0)	<b>5 (5)</b>
<b>Mysticetes</b>			
Bowhead whale	196 (0)	1226 (2)	<b>1226 (5)</b>
Gray whale	1 (0)	3 (0)	<b>5 (5)</b>
<b>Total Cetaceans</b>	<b>197 (0)</b>	<b>1229 (2)</b>	
<b>Pinnipeds</b>			
Bearded seal	120 (0)	481 (1)	<b>481 (10)</b>
Ringed seal	2360 (4)	9439 (15)	<b>9439 (50)</b>
Spotted seal	25 (0)	99 (0)	<b>99 (5)</b>
<b>Total Pinnipeds</b>	<b>2505 (4)</b>	<b>10020 (16)</b>	

**Table 3.** Estimates of the numbers of marine mammals in areas where maximum received sound levels in the water would be  $\geq 120$  dB and ( $\geq 160$  dB) during SOI's proposed geotechnical activities in the Beaufort Sea, Alaska, during summer (July – August) and fall (September). Not all marine mammals will change their behavior when exposed to these sound levels. Fall estimates are included in Table 1 for tophole drilling.

Species	Number of Exposure to Sound Levels $\geq 120$ dB and ( $\geq 160$ dB)						Requested Take Authorization
	Summer		Fall		Total		
	Avg	Max	Avg	Max	Avg	Max	
<b>Odontocetes</b>							
<b>Monodontidae</b>							
Beluga	5 (0)	18 (0)	5 (0)	21 (0)	10 (0)	40 (0)	<b>40 (5)</b>
Narwhal	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	<b>5 (5)</b>
<b>Phocoenidae</b>							
Harbor porpoise	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	1 (0)	<b>5 (5)</b>
<b>Mysticetes</b>							
Bowhead whale	1 (0)	5 (0)	420 (3)	420 (3)	421 (3)	425 (3)	<b>425 (5)</b>
Gray whale	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	1 (0)	<b>5 (5)</b>
<b>Pinnipeds</b>							
Bearded seal	28 (0)	111 (0)	3 (0)	12 (0)	31 (0)	123 (0)	<b>123 (5)</b>
Ringed seal	544 (0)	2176 (0)	60 (0)	242 (0)	604 (0)	2418 (0)	<b>2418 (5)</b>
Spotted seal	6 (0)	23 (0)	1 (0)	3 (0)	6 (0)	25 (0)	<b>25 (5)</b>
<b>Total Pinnipeds</b>	<b>577 (0)</b>	<b>2310 (0)</b>	<b>64 (0)</b>	<b>257 (0)</b>	<b>642 (0)</b>	<b>2566 (0)</b>	

## BILLING CODE 3510-22-C

*Summary – Tophole Drilling*

The proposed tophole section drilling activities in the Beaufort Sea will involve one drilling vessel that will introduce continuous sounds into the ocean while it is active and possibly two ice-management vessels that would introduce non-continuous sounds if they must break ice. Other routine vessel operations are conventionally assumed not to affect marine mammals sufficiently to constitute “taking”.

**Cetaceans**

Effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the drilling operation and short-term changes in behavior, falling within the MMPA definition of “Level B harassment”. The estimated numbers of cetaceans potentially exposed to sound levels sufficient to cause significant biological disturbances are relatively low percentages of the population sizes in the Bering–Chukchi–Beaufort seas, as described below. Based on the 120–dB criterion for intermittent noise from Malme *et al.* (1984), the best (average) estimates of the numbers of individual cetaceans exposed to sounds  $\geq 120$  dB re 1 microPa (rms) represent varying proportions of the populations of each species in the Beaufort Sea and adjacent waters. While SOI estimates approximately 4315 bowheads may be exposed to received levels of greater

than or equal to 120 dB and 160 dB and that is approximately 32 percent of the Bering-Chukchi-Beaufort population of about 13,326 (assuming 3.4 percent annual population growth from the 2001 estimate of 10,545 animals (Zeh and Punt, 2005)), SOI and NMFS estimate that, due to bowheads avoiding the area around tophole drilling activities only 36 individuals will be exposed to sounds  $\geq 160$  dB which equals <1 percent of the population.

A few beluga whales may be exposed to sounds produced by the drilling activities, and the numbers potentially affected are small relative to the population sizes. The best estimate of the number of belugas that might be exposed to  $\geq 120$  dB (11) represents <1 percent of their Beaufort Sea population (39,258). No cetacean species, other than the bowheads, are expected to be exposed to levels  $\geq 160$  dB. Narwhals are extremely rare in the U.S. Beaufort Sea and none are expected to be encountered during the 2008 drilling activity.

**Pinnipeds**

A few pinniped species are likely to be encountered in the drilling activity area, but the ringed seal is by far the most abundant marine mammal that will be encountered. The best (average) estimates of the numbers of individuals exposed to sounds at received levels  $\geq 120$  dB re 1 microPa (rms) during the drilling activities are as follows: ringed seals (647), bearded seals (33), and

spotted seals (6), (representing <1 percent of their respective Beaufort Sea populations). Pinnipeds are unlikely to react to intermittent (steady) sounds until they are at much higher sound pressure levels than 120 dB re 1 microPa, so it is probable that only a small percentage of those would actually be disturbed. Based on density calculations provided in SOI's IHA application, no pinnipeds are estimated to be exposed to sounds  $\geq 160$  dB.

*Summary – Geotechnical Program*

As mentioned, the proposed geotechnical program activities in the Beaufort Sea will involve one geotech vessel, that will introduce intermittent/continuous sounds into the ocean while it is active. Other routine vessel operations are conventionally assumed not to affect marine mammals sufficiently to constitute rising to a level requiring an authorization under section 101(a)(5)(D) of the MMPA (provided they are not conducting ice management activities or towing barges or drilling equipment).

**Cetaceans**

Effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the geotechnical activities and short-term changes in behavior, falling within the MMPA definition of “Level B harassment”. Furthermore, the estimated numbers of animals potentially exposed to sound levels sufficient to cause significant

biological disturbances are relatively low percentages of the population sizes in the Bering–Chukchi–Beaufort seas, as described next.

Based on the 120–dB criterion for intermittent/continuous noise effects, the best (average) estimates of the numbers of individual cetaceans exposed represent varying proportions of the populations of each species in the Beaufort Sea and adjacent waters. For this activity, SOI estimates that approximately 425 bowheads will be exposed to sound pressure levels of 120 dB or greater. This level is approximately 3.1 percent of the Bering–Chukchi–Beaufort population of 13,326 animals. However, due principally to diverting away from noise from the drilling activity, SOI estimates that only 3 individuals are estimated to be exposed to sounds  $\geq 160$  dB equaling  $< 1$  percent of the population. These animals may be feeding or engaging in non–migratory behavior and therefore are unlikely to be affected by seismic sounds  $\leq 160$  dB.

A few belugas may be exposed to sounds produced by the geotechnical activities; therefore, the numbers potentially affected are small relative to the population sizes. As mentioned previously, narwhals are extremely rare in the U.S. Beaufort Sea and none are expected to be encountered during the geotechnical work. The best estimate of the number of belugas that might be exposed to  $\geq 120$  dB (10) represents  $< 1$  percent of their population. No species, other than the bowhead whale, are expected to be exposed to levels  $\geq 160$  dB.

#### Pinnipeds

A few pinnipeds are likely to be encountered in the geotechnical activities area, but the ringed seal is by far the most abundant marine mammal that will be encountered. The best (average) estimates of the numbers of individuals exposed to sounds at received levels  $\geq 120$  dB re 1 microPa (rms) during the geotechnical activities are as follows: ringed seals (604), bearded seals (31), and spotted seals (6), (representing  $< 1$  percent of their respective Beaufort Sea populations). SOI notes that pinnipeds are unlikely to react to steady sounds until they are much stronger than 120 dB re 1 microPa, so it is probable that only a small percentage of those would actually be disturbed. Based on density calculations provided in SOI's IHA application, no pinnipeds are estimated to be exposed to sounds  $> 160$  dB.

#### Summary – Towing the Kulluk

A vessel towing the *Kulluk* through the Canadian Beaufort Sea from Tuktoyaktuk to the US-Canadian border would travel about 358 km (222 mi). Transit from the US-Canadian border to the Sivulliq prospect in western Camden Bay would be about 170 km (106 mi) in length for a total transit length of approximately 528 km (328mi). Although SOI has estimated potential exposure levels for both sections of the transit, because the taking of marine mammals inside Canadian territorial waters cannot be authorized under the MMPA, NMFS will authorize only those takings (by harassment) estimated to result within U.S. waters.

Sounds produced by a vessel towing the *Kulluk* have not been measured. As a surrogate, measurements of sounds produced by the *Gilavar* in Camden Bay while it towed 32 airguns and four hydrophone streamers were used as estimates of the  $\geq 160$  dB and  $\geq 120$  dB distances. The estimated  $\geq 160$  dB distance from the *Gilavar* measurements is 10 m (3.3 ft) and the  $\geq 120$  dB distance is 6.3 km (3.9 mi). Using these distances and the estimated trackline distance above the area of water potentially ensounded to  $\geq 160$  dB would be approximately 11 km<sup>2</sup> and to  $\geq 120$  dB would be approximately 6653 km<sup>2</sup>.

Average and maximum estimates of bowhead whale densities along the transit route were estimated from aerial survey data collected during the month of September near Kaktovik reported in Richardson and Thompson (eds. 2002, Table 6–6). Densities of belugas used in this analysis are the same as shown in the “ice margin” column of Table 6–1 as these densities are also reasonable estimates of beluga density in the waters through which this transit will likely occur. All other species densities are the same as those presented in the “nearshore” (0–200 m water depth) column in Table 6–2 in SOI's 2008 IHA application.

#### Cetaceans

Effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the towing vessel activities due to the noise. These short-term changes in behavior fall within the MMPA definition of “Level B harassment”. Furthermore, the estimated numbers of animals potentially exposed to sound levels sufficient to cause disturbance are relatively low percentages of the population sizes in the Bering–Chukchi–Beaufort seas, as described next.

Based on the 120–dB criterion for intermittent/continuous noise effects caused by ship propulsion noise, the best (average) estimates of the numbers of individual cetaceans exposed represent varying proportions of the populations of each species in the Beaufort Sea. For this activity, SOI estimates that approximately 196 bowheads (63 in U.S., 133 in Canada) will be exposed to sound pressure levels of 120 dB or greater. This level is less than 1 percent of the BCB population of the BCB population of 13,326 animals. Also, due principally to diverting away from noise from the drilling activity, SOI estimates that no bowheads individuals will be exposed to sounds  $\geq 160$  dB.

Some belugas may be exposed to sounds produced by the *Kulluk* towing activities; (total 208 (66 in U.S.; 141 in Canada). However, the number of potentially affected belugas isare small relative to their population size. The best estimate of the number of belugas that might be exposed to  $\geq 120$  dB represents  $< 1$  percent of their population. As mentioned previously, narwhals are extremely rare in the U.S. Beaufort Sea and none are expected to be encountered during the towing operation. Due to the time of the year that towing will take place, and the small zone of influence by towing operations, no cetacean species are expected to be exposed to levels  $\geq 160$  dB.

#### Pinnipeds

Pinnipeds are likely to be encountered while towing the *Kulluk* from Tuktoyaktuk to Sivulluq with the ringed seal by far the most abundant marine mammal that will be encountered. The best (average) estimates of the numbers of individuals exposed to sounds at received levels  $\geq 120$  dB re 1 microPa (rms) during the towing activities are as follows: ringed seals (755 in U.S.; 1605 in Canada), bearded seals (39 in U.S.; 82 in Canada), and spotted seals (8 in U.S.; 17 in Canada). SOI notes that pinnipeds are unlikely to react to steady sounds, such as those produced by a vessel towing another vessel, until the sound levels are significantly higher than 120 dB re 1 microPa, so it is probable that only a small percentage of those would actually be disturbed. A total of 4 ringed seals potentially could be exposed to sounds  $> 160$  dB.

#### Potential Impact On Habitat

SOI states that the proposed tophole drilling and related activities will not result in any permanent impact on habitats used by marine mammals, or to

their prey sources. Any effects would be temporary and of short duration at any one location. The effects of the planned drilling activities are expected to be negligible. It is estimated that only a small portion of the animals utilizing the areas of the proposed activities would be temporarily displaced from that habitat. During the period of SOI's geotech activities, most marine mammals would be dispersed throughout the Beaufort Sea area. The peak of the bowhead whale migration through the Beaufort Sea typically occurs in September and October, and SOI will discuss its efforts to reduce potential impacts during this time with the affected whaling communities. Starting in late-August, bowheads may travel in proximity to the drilling activity and some might be displaced seaward by the planned activities. The numbers of cetaceans and pinnipeds subject to displacement are small in relation to abundance estimates for the affected mammal stocks.

In addition, SOI states that feeding does not appear to be an important activity by bowheads migrating through the eastern and central part of the Alaskan Beaufort Sea in most years. In the absence of important feeding areas, the potential diversion of a small number of bowheads is not expected to have any significant or long-term consequences for individual bowheads or their population. Bowheads, gray, or beluga whales are not expected to be excluded from any significant habitat.

The proposed activities are not expected to have any habitat-related effects that would produce long-term affects to marine mammals or their habitat due to the limited extent of the acquisition areas and timing of the activities.

#### *Potential Effects of Drilling Sounds and Related Activities on Subsistence Needs*

SOI notes that there could be an adverse impact on the Inupiat fall bowhead subsistence hunt if whales were deflected seaward (further from shore) in the traditional hunting areas north of Pt. Thomson in Camden Bay. The impact could be that whaling crews would have to travel greater distances to intercept westward migrating whales thereby creating a safety hazard for whaling crews and/or limiting chances of successfully striking and landing bowheads. For 2008, the geotechnical program is planned to occur before subsistence whaling begins, while the tophole section drilling will not occur until after the bowhead whaling season has concluded.

This potential impact on the bowhead subsistence hunt is proposed by SOI to

be mitigated through the application of mitigation procedures described later in this document and implemented by a Conflict Avoidance Agreement (CAA) between SOI, the Alaska Eskimo Whaling Commission (AEWC) and the whaling captains' associations of Kaktovik, Nuiqsut and Barrow. SOI believes that the proposed mitigation measures will minimize adverse effects on whales and whalers. (see Mitigation later in this document). Regardless of whether a 2008 CAA is successfully negotiated, SOI states that it is committed to the mitigation measures described later in this document. As a result, NMFS believes that there should not be an unmitigable adverse impact on the availability of the marine mammal species, particularly bowhead whales, for subsistence uses.

#### *Proposed Mitigation for Subsistence Hunting*

NMFS regulations (50 CFR 216.104(b)(13)) require IHA applicants for activities that take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses to submit a Plan of Cooperation (POC) or similar information that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. First, NMFS regulations require a statement that the IHA applicant has notified and provided the affected subsistence community with a draft POC. A summary of SOI's POC meetings during 2006 and 2007 is provided in SOI's 2008 IHA application.

For the 2008 proposed open water activities, SOI met with the AEWC and the whaling captains associations of Nuiqsut, Kaktovik, Wainwright, Pt. Hope, and Barrow between February 7–11, 2008 to address concerns from affected bowhead whale subsistence users regarding SOI's 2007 open water program and planned upcoming 2008 open water activities. If successfully negotiated and signed, a CAA would be a component of SOI's 2008–2009 POC and is anticipated it will cover the proposed Beaufort Sea exploratory drilling program. In addition, in 2008 SOI held several community POC meetings to discuss SOI's 2008 open water programs in the Beaufort and Chukchi Seas.

Also, in order to assess the concerns of other affected subsistence users, SOI also met with the marine mammal commissioners of the AEWC, Alaska Beluga Whale Committee, Ice Seal Committee, and the Nanuuq Commission during a two-day meeting

December 12–13, 2007 in Anchorage to discuss 2007/2008 programs. Additional meetings have been held during the spring, 2008.

SOI plans to hold community meetings in Barrow, Nuiqsut, Kaktovik, Wainwright, Point Hope, and Point Lay, regarding its Beaufort and Chukchi Seas 2008 open water programs. During these meetings, SOI states that it will focus on lessons learned from the 2007 open water program and, present the proposed 2008 program activities, and describe SOI's adaptive management approach toward conducting its activities. SOI states that it will continue to hold meetings with the above mentioned marine mammal commissions that are focused on ice seals, walrus, polar bears, and beluga.

NMFS regulations also require affected IHA applicants to provide a description of what measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence whaling or sealing. For SOI's open water exploration drilling of the tophole sections at Sivulluq, SOI states that the *Kulluk* and all support vessels will operate in accordance with the provisions of the POC. The POC is developed to mitigate effects of SOI's proposed program(s) where activities would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses. SOI has consulted in the past and will consult this year with affected Beaufort (and Chukchi) Sea communities and marine mammal associations for the development and improvement of the POC. For the drilling program, SOI's POC with Beaufort Sea villages will address vessel transit, drilling and associated activities. It is the intention of SOI to negotiate a CAA with the AEWC, and whaling captain's associations of affected Beaufort and Chukchi Sea villages, as a component of the POC. If a CAA is negotiated with AEWC, then the provisions of the CAA will be included in the POC. In the absence of a signed CAA, SOI states that it is committed to implementing the mitigation measures described later in this section of the notice and will implement these measures, which are intended to minimize any adverse effects on the availability of marine mammals for subsistence uses.

In addition, NMFS notes that a POC will specify times and areas to avoid in order to minimize possible conflicts with traditional subsistence hunts by North Slope villages for transit and drilling operations. For its 2008 tophole

section drilling program, SOI has stated that it will not operate the *Kulluk* and associated vessels in Camden Bay until after the Kaktovik and Nuiqsut fall bowhead whale subsistence harvests are completed. Appropriate operational restrictions applicable for future open-water drilling activities (2009 and beyond) will be developed in consultation with affected communities via the POC.

The geotechnical vessel's activities will also operate in accordance with the provisions of a POC. SOI plans to complete the geotechnical program prior to the fall bowhead whale subsistence harvests of the communities of Kaktovik and Nuiqsut. SOI states that it will not operate the geotechnical program in Camden Bay during the Kaktovik and Nuiqsut fall bowhead whale subsistence harvests. If SOI is unable to complete the planned geotechnical program before the onset of fall whaling for Kaktovik and Nuiqsut, SOI plans to return to Sivulliq, and/or prospective pipeline corridor after the conclusion of the harvest to complete the program.

SOI states that the *Kulluk*, the geotech vessel and all support vessels and aircraft will operate in accordance with the conditions of a CAA currently being negotiated with the AEWC. However, regardless of whether a CAA is signed, SOI states that it will implement the following key mitigation measure concepts that will be included in SOI's POC:

1. If not completed prior to the bowhead whale subsistence hunt, the geotechnical program will cease during the Kaktovik and Nuiqsut (Cross Island) fall bowhead whale subsistence harvests. The geotechnical vessel will be relocated out of Camden Bay during this time.

2. Communications system between operator's vessels and the whaling hunting crews. This includes the 24 hours per day operation of communication centers in Kaktovik (Call center) and Deadhorse (Com center) areas, which are staffed by Inupiat operators, and the installation of radio equipment in the whaler's boats. The Deadhorse Com center and Kaktovik Call center also provides a method for other subsistence hunters, such as seal hunters, who can communicate with the industry vessels.

3. Provision for marine mammal observers (MMOs) aboard all project vessels (see below).

4. Conflict resolution procedures.

5. Plan all vessel and aircraft routes to minimize the impact on subsistence hunts. Aircraft will not operate below 1000 ft. (309 m) unless approaching, landing or taking off, or unless engaged

in providing assistance, or in poor weather low ceiling, or other emergency situation.

6. A "Good Neighbor Policy" that provides for financial compensation in the unlikely event that an oil spill diminishes the availability or usability of subsistence resources such as bowhead or beluga whales, seals, walrus, polar bear, fish or water fowl.

7. Provisions for rendering emergency assistance to subsistence hunting crews.

#### **Proposed Marine Mammal Mitigation and Monitoring Measures**

SOI has proposed implementing a marine mammal mitigation and monitoring program (4MP) that will consist of monitoring and mitigation during the exploratory drilling activities. In conjunction with monitoring during SOI's seismic and shallow-hazard surveys (subject to an upcoming notice and review), monitoring will provide information on the numbers of marine mammals potentially affected by these activities and permit real time mitigation to prevent injury of marine mammals by industrial sounds or activities. These goals will be accomplished by conducting vessel-, aerial-, and acoustic-monitoring programs to characterize the sounds produced by the drilling and to document the potential reactions of marine mammals in the area to those sounds and activities. Acoustic modeling will be used to predict the sound levels produced by the shallow hazards and drilling equipment in the U.S. Beaufort Sea. For the drilling program, acoustic measurements will also be made to establish zones of influence (ZOIs) around the activities that will be monitored by observers. Aerial monitoring and reconnaissance of marine mammals and recordings of ambient sound levels, vocalizations of marine mammals, and received levels should they be detectable using bottom-founded acoustic recorders along the Beaufort Sea coast will be used to interpret the reactions of marine mammals exposed to the activities. The components of SOI's monitoring program is briefly described next. Additional information can be found in SOI's IHA application.

#### *Mitigation and Monitoring Measures During Transit of the Chukchi and Beaufort Seas*

A Chukchi Sea vessel transit mitigation plan has been developed to identify transit strategies that will minimize and mitigate possible impacts to marine mammals and subsistence hunting activities in the offshore and adjacent coastal areas along the transit

route if vessels associated with SOI's drilling program transit through the Chukchi Sea on the way to the Sivulliq prospect in the eastern Alaskan Beaufort Sea. The plan relies principally on strategies of avoidance, minimization, monitoring, and communication to reduce exposure of marine mammals to sound levels and visual stimuli that could be capable of disturbance, displacement, or significant alteration of behavior.

Avoidance of areas where exposure of marine mammals to disturbance will be accomplished in the Chukchi Sea by positioning the transit route > 50 mi (80 km) offshore and, to the extent possible, in open water. By remaining > 50 mi (80 km) offshore, the transit route remains away from areas of coastal concentration of marine mammals, including seals, walrus, and beluga whales. By remaining in open water, to the greatest extent possible, noise levels will be kept to a minimum. In open water, the transit will be relatively slow and steady and will not require engine revving or other operations that increase cavitation.

In the event that the presence of ice in the transit route makes the maintenance of a > 50 mi offshore buffer in the Chukchi Sea practicable, SOI proposes to reduce this buffer in favor of maintenance of a 0.5 mi (804 m) buffer between the transit route and the ice edge. By staying out of the ice, the vessels will minimize sound emission levels and will remain away from hauled out concentrations of walrus and seals. The transit distance from shore may decrease below the desired 50 mi buffer but SOI notes it will not enter the polynia zone.

On-board MMOs will be on duty on all vessels during the transit and will direct vessel transit to remain, where possible, one-half mile or greater from marine mammals (understanding that marine mammals may approach the vessels) to and avoid collisions with marine mammals. During ice transits, MMOs will supplement aerial surveys and assist in the maintenance of buffers and observation of marine mammal concentrations and behaviors. If such observations demonstrate disturbance behavior, buffers will be adjusted as appropriate.

#### *Vessel-based Marine Mammal Monitoring Program*

The vessel-based operations will be the core of SOI's 4MP. The 4MP will be designed to ensure that disturbance to marine mammals and subsistence hunts is minimized, that effects on marine mammals are documented, and to collect baseline data on the occurrence and distribution of marine mammals in

the study area. Those objectives will be achieved, in part, through the vessel-based monitoring and mitigation program.

The 4MP will be implemented by a team of experienced MMOs, including both biologists and Inupiat personnel, approved in advance by NMFS. The MMOs will be stationed aboard the drilling vessel, the geotechnical vessel, and associated support vessels throughout the drilling period. The duties of the MMOs will include watching for and identifying marine mammals; recording their numbers, distances, and reactions to the drilling operations; initiating mitigation measures when appropriate; and reporting the results. Reporting of the results of the vessel-based monitoring program will include the estimation of the number of "takes."

The vessel-based operations of SOI's 4MP will be required to support the vessel based drilling or geotechnical activities in the central and eastern Alaskan Beaufort Sea (July through October). The dates and operating areas will depend upon ice and weather conditions, along with SOI's arrangements with agencies and stakeholders. Exploratory drilling activities are expected to occur after whaling during 2008, whereas geotechnical activities are expected to occur prior to whaling during 2008. Vessel-based monitoring for marine mammals will be done throughout the period of drilling operations in compliance with monitoring requirements contained in the IHA issued to SOI, if warranted.

The vessel-based work will provide: (1) the basis for real-time mitigation, (2) information needed to estimate the "take" of marine mammals by harassment, (3) data on the occurrence, distribution, and activities of marine mammals in the areas where the drilling program is conducted, (4) information to compare the distances, distributions, behavior, and movements of marine mammals relative to the source vessels at times with and without drilling or ice-management activity, (5) a communication channel to Inupiat whalers and the Whaling Coordination Center, and (6) employment and capacity building for local residents, with one objective being to develop a larger pool of experienced Inupiat MMOs.

All MMOs will be provided training through a program approved by NMFS. At least one observer on each vessel will be an Inupiat who will have the additional responsibility of communicating with the Inupiat community and (during the whaling

season) directly with Inupiat whalers. Details of the vessel-based marine mammal monitoring program are described in the IHA application.

#### *Mitigation and Monitoring Measures During Drilling Activities*

SOI's proposed offshore drilling program incorporates both design features and operational procedures for minimizing potential impacts on marine mammals and on subsistence hunts. The design features and operational procedures have been described in the IHA applications and are summarized here. Survey design features to reduce impacts include: (1) timing and locating some drilling support activities to avoid interference with the annual fall bowhead whale hunts from Kaktovik, Nuiqsut (Cross Island), and Barrow; (2) conducting pre-work modeling (and early season field assessments) to establish the appropriate 180 dB and 190 dB safety zones (if necessary), and the 160 and 120 dB behavior radii; and (3) vessel-based (and aerial) monitoring to implement appropriate mitigation (and to assess the effects of project activities on marine mammals). Also, the potential disturbance of marine mammals during drilling operations will be minimized further through the implementation of several ship-based mitigation measures as discussed below.

Under current NMFS guidance "safety radii" for marine mammals around acoustic sources are customarily defined as the distances within which received pulse levels are  $\geq 180$  dB re 1 microPa (rms) for cetaceans and  $\geq 190$  dB re 1 microPa (rms) for pinnipeds. These safety criteria are based on an assumption that lower received levels will not injure these animals or impair their hearing abilities, but that higher received levels might have a potential for such effects. Greene (1987) reported SPLs ranging from 130–136 dB (rms) at 0.2 km (656 ft) from the *Kulluk* during drilling activities (drilling, tripping, and cleaning) in the Arctic. (Higher received levels up to 148 dB (rms) were recorded for supply vessels that were underway and for icebreaking activities.) As a result, SOI believes that the tophole exploratory and geotechnical drilling and the activities of the support vessels are not likely to produce sound levels 180 dB (rms) or greater and thereby have potential to cause temporary hearing loss or permanent hearing damage to any marine mammals. Consequently, standard mitigation as described later in this document for seismic activities including shut down of any drilling activity should not be necessary (unless sound monitoring tests described elsewhere in this document indicate

SPLs at or greater than 180 dB). If testing indicates SPLs will reach or exceed 180 dB or 190 dB, then appropriate mitigation measures would be implemented by SOI to avoid potential Level A harassment of cetaceans (at or above 180 dB) or pinnipeds (at or above 190 dB). Mitigation measures may include reducing drilling or ice management noises, whichever is appropriate. Moreover, SOI plans to use MMOs onboard the drill ships and the various support and supply vessels to monitor marine mammals and their responses to industry activities. In addition, an acoustical program and an aerial survey program which are discussed in previous sections will be implemented to determine potential impacts of the drilling program on marine mammals.

#### *Marine Mammal Observers*

MMOs will be required onboard each vessel to ensure that observations can be conducted efficiently and without fatigue. MMOs will be required onboard each vessel to meet the following criteria: (1) availability for monitoring and consultation coverage during periods of drilling operations in daylight; (2) maximum of 4 consecutive hours on watch per MMO; (3) maximum of approx. 12 hours on watch per day per MMO. The observer(s) (MMOs and Inupiat) will watch for marine mammals from the best available vantage point on the operating source vessel, which is usually the bridge or flying bridge. The observer(s) will scan systematically with the naked eye and 7 50 reticle binoculars, supplemented with night-vision equipment when needed (see below). Personnel on the bridge will assist the marine mammal observer(s) in watching for pinnipeds and whales. The observer(s) will give particular attention to the areas around the vessel. When a mammal sighting is made, the following information about the sighting will be recorded: (1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from drilling vessel, apparent reaction to drilling noise (e.g., none, avoidance, approach, paralleling, etc.), closest point of approach, and behavioral pace; (2) time, location, heading, speed, and activity of the vessel (if underway at the time), sea state, ice cover, visibility, and sun glare; (3) the positions of other vessel(s) in the vicinity of the source vessel. This information will be recorded by the MMOs at times of whale and seal sightings.

The ship's position and its heading, and speed (if the vessel is underway),

activity state (e.g., drilling, non-drilling), and water temperature, water depth, sea state, ice cover, visibility, and sun glare will also be recorded at the start and end of each observation watch, every 30 minutes during a watch, and whenever there is a change in any of those variables. Distances to nearby marine mammals will be estimated with binoculars containing a reticle to measure the vertical angle of the line of sight to the animal relative to the horizon. Observers may use a laser rangefinder to test and improve their abilities for visually estimating distances to objects in the water.

However, previous experience showed that this Class 1 eye-safe device was not able to measure distances to seals more than about 70 m (230 ft) away. However, it was very useful in improving the distance estimation abilities of the observers at distances up to about 600 m (1968 ft)—the maximum range at which the device could measure distances to highly reflective objects such as other vessels. Experience indicates that humans observing objects of more-or-less known size via a standard observation protocol, in this case from a standard height above water, quickly become able to estimate distances within about plus or minus 20 percent when given immediate feedback about actual distances during training.

In addition to routine MMO duties, Inupiat observers will be encouraged to record comments about their observations into the “comment” field in the database. Copies of these records will be available to the Inupiat observers for reference if they wish to prepare a statement about their observations. If prepared, this statement would be included in the 90-day and final reports documenting the monitoring work.

Night-vision equipment (“Generation 3” binocular image intensifiers, or equivalent units) will be available for use when needed during nighttime observations. However, past experience with night-vision devices (NVDs) in the Beaufort Sea and elsewhere indicates that NVDs are not nearly as effective as visual observation during daylight hours (e.g., Harris *et al.*, 1997, 1998; Moulton and Lawson, 2002). However, for drilling and geotechnical operations, the safety zone is stationary and is sufficiently small to allow effective monitoring of the safety zones.

#### *Proposed Additional Mitigation Measures*

In addition to the standard mitigation and monitoring measures discussed in SOI’s IHA application, NMFS is also proposing to require in the IHA, additional mitigation measures to

protect feeding and migrating bowhead whales in the U.S. Beaufort Sea. These include (1) not conducting drilling operations during the bowhead migration and subsistence hunting periods and vessel and aerial monitoring requirements to look for feeding gray and bowhead whale concentrations and migrating bowhead whale cow/calf pairs. If changes in behavior are observed during operations, drilling operations must cease until the whales have migrated past the drilling location.

#### *Underwater Acoustical Monitoring Program*

As described in more detail in SOI’s IHA application, sounds produced during the drilling and geotechnical operations and vessels supporting the offshore drilling program will be measured in the field during typical operations. These measurements will be used to establish potential disturbance radii for respective marine mammal groups within the project area. The goals and objectives of SOI’s planned work are: (1) to measure the distances from the various sound sources to broadband received levels of 170, 160, and 120 dB rms re 1 microPa (sounds are not expected to reach 180 dB from the drilling and geotechnical vessels), and (2) to measure the radiated vessel sounds vs. distance for the source and support vessels. The measurements will be made at the beginning of the specific activity (i.e., shallow hazards survey activity and drilling activity) and all safety and disturbance radii will be reported within 72 hours of completing the measurements. For the drilling operation, a subsequent mid-season assessment is proposed to be conducted to measure sound propagation from combined drilling operations during “normal” operations. For drilling activities, the primary radii of concern will be the 160-dB disturbance radii (although measurements will be made to the 180-dB isopleth). In addition to reporting the radii of specific regulatory concern, distances to other sound pressure level isopleths down to 120 dB (if measurable) will be reported in increments of 10 dB. The distance at which received sound levels become  $\geq 120$  dB for continuous sound (which occurs during drilling activities as opposed to impulsive sound which occurs during seismic activities) is sometimes considered to be a zone of potential disturbance for some cetacean species by NMFS. SOI plans to use vessel-based MMOs to monitor the 160-dB disturbance radii around the drilling vessels and, if necessary, to implement mitigation measures for the 190- and

180-dB safety radii. An aerial survey program will be implemented to monitor both the drilling and seismic activities in the Beaufort Sea.

SOI plans to use a qualified acoustical contractor to measure the sound propagation of the vessel-based drilling rig during periods of drilling activity, and the drill ship, geotech vessel and support vessels while they are underway at the start of the field season. Noise from ships with ice-breaking capabilities will be measured during periods of ice-breaking activity. These measurements will be used to determine the sound levels produced by various equipment and to establish any safety and disturbance radii if necessary. Bottom-founded hydrophones similar to those used in 2006 and 2007 for measurements of vessel-based seismic sound propagation will likely be used to determine the levels of sound propagation from the drill rigs and associated vessels. An initial sound source analysis will be supplied to NMFS and the drilling operators within 72 hours of completion of the measurements, if possible. NMFS proposed to clarify in the IHA that the sound source analysis will be provided to NMFS within 24 hours of submission to SOI. A detailed report on the methodology and results of these tests will be provided to NMFS as part of the 90-day report following completion of the drilling program.

#### *Aerial Survey Monitoring Program*

SOI proposes to conduct an aerial survey program in support of its dual seismic exploration and drilling programs in the Beaufort Sea during summer and fall of 2008. SOI notes that the objectives of the aerial survey will be to: (1) advise operating vessels as to the presence of marine mammals in the general area of operation; (2) collect and report data on the distribution, numbers, movement and behavior of marine mammals near the drilling operations with special emphasis on migrating bowhead whales; (3) support regulatory reporting and Inupiat communications related to the estimation of impacts of drilling operations on marine mammals; (4) monitor the accessibility of bowhead whales to Inupiat hunters and (5) to document how far west of drilling activities bowhead whales travel before they return to their normal migration paths, and if possible, to document how far east of drilling operations the deflection begins.

The same aerial survey design will be implemented by SOI during the summer (one week prior to beginning of offshore operations until August 20) and fall

(August 20 - five days after cessation of operations, or until agreement is reached that the bowhead migration has ended) periods, but during the early summer, the surveys will be flown twice a week and during the late summer and fall, flights will be conducted daily. During the early summer, few cetaceans are expected to be encountered in the nearshore Alaskan Beaufort Sea where the drilling operation will be conducted (see particularly Moore *et al.* (1989b), Moore and Clarke (1989, 1991), Moore (1992), Moore *et al.* (1989a, 1993, 2000), Moore and Reeves (1993), Moore and DeMaster (1997), Miller *et al.* (1998, 1999, 2002) and those that are encountered are expected to be either along the coast (gray whales: (Maher (1960), Rugh and Fraker (1981), Miller *et al.* (1999), Treacy (2000)) or among the pack ice (bowheads: Moore *et al.* (1989b), and belugas: Moore *et al.* (1993), Clarke *et al.* (1993)) north of the area where drilling activities are to be conducted. During some years a few gray whales are found feeding in shallow nearshore waters from Barrow to Kaktovik but most sightings are in the western part of that area.

During the late summer and fall, the bowhead whale is the primary species of concern, but belugas and gray whales are also present. Bowheads and belugas migrate through the Alaskan Beaufort Sea from summering areas in the central and eastern Beaufort Sea and Amundsen Gulf to their wintering areas in the Bering Sea (Clarke *et al.*, 1993; Moore *et al.*, 1993; Miller *et al.*, 2002). Small numbers of bowheads are sighted in the eastern Alaskan Beaufort Sea starting mid-August and near Barrow starting late August, but the main migration does not start until early September. The bowhead migration tends to be through nearshore and shelf waters, although in some years small numbers of whales are seen near the coast and/or far offshore. Bowheads frequently interrupt their migration to feed (Ljungblad *et al.*, 1986a; Lowry, 1993; Landino *et al.* 1994; Würsig *et al.* 2002; Lowry *et al.* 2004) and their stops vary in duration from a few hours to a few weeks (Koski *et al.*, 2002). Opportunistic feeding areas are in coastal and shelf waters near and east of Kaktovik.

The aerial survey procedures will be generally consistent with those during earlier industry studies (Davis *et al.*, 1985; Johnson *et al.*, 1986; Evans *et al.*, 1987; Brueggeman *et al.*, 1992; Miller *et al.*, 1997, 1998, 1999, 2002; Patterson, 2007). This will facilitate comparison and pooling of data where appropriate. However, the specific survey grids will be tailored to SOI's operations and the

time of year. During the 2008 field season SOI will coordinate and cooperate with the aerial surveys conducted by MMS and any other groups conducting aerial surveys in the same region.

SOI notes that the timing, duration, and location of SOI's drilling operations are subject to change as a result of unpredictable weather and ice issues, as well as regulatory and stakeholder concerns. As a result, SOI's recommended approach is flexible and able to adapt at short notice to changes in the operations. For information on SOI's summer and fall aerial survey design, please refer to SOI's 2008 IHA application.

#### *Acoustic Monitoring Program*

Determining the potential effects of drilling noise on migration bowhead whales will be complicated by the presence of ice-management and other support vessels that may contribute to underwater sound levels. Miles *et al.* (1987) reported higher sound pressure levels (SPLs) from ice-breakers underway in open water than from vessel-based drilling activity. SPLs from dredging activity, a working tug, and an icebreaker pushing ice were also greater than those produced by vessel-based drilling activity. However, sounds produced during drilling activity are relatively continuous while ice management vessel sounds are considered to be intermittent, and there is some concern that continuous and intermittent sounds may result in behavioral reactions (at least in mysticete whales) at a greater distance than impulse sound (i.e., seismic) of the same intensity.

Acoustic localization methods provide a possible alternative (or supplement) to aerial surveys for addressing these questions. As compared with aerial surveys, acoustic methods have the advantage of providing a vastly larger number of whale detections, and can operate day or night, independent of visibility, and to some degree independent of ice conditions and sea state—all of which prevent or impair aerial surveys. However, acoustic methods depend on the animals to call, and to some extent one must assume that calling rate is unaffected by exposure to industrial noise. Bowheads do call frequently in the fall, but there is some evidence that their calling rate may be reduced upon exposure to industrial sounds, complicating interpretation. Also, acoustic methods require development and deployment of instruments that are stationary (preferably mounted on the bottom) to record and localize the whale

calls. According to SOI, acoustic methods would likely be more effective for studying impacts related to a stationary sound source, such as a drilling rig that is operating within a relatively localized area, than for a moving sound source such as that produced by a seismic source vessel. SOI's proposed study is described next.

#### *Acoustic Study of Bowhead Deflections*

SOI plans to deploy an acoustic net array program in the Beaufort Sea in 2008, similar to that which was done in 2007, but enhanced by the use of directional acoustic systems that permit localization of bowhead whale and other marine mammal vocalizations. The purpose of the array will be to further understand, define, and document sound characteristics and propagation resulting from vessel-based drilling operations that may have the potential to cause deflections of bowhead whales from their migratory pathway. Of particular interest will be the east-west extent of deflection (i.e. how far east of a sound source do bowheads begin to deflect and how far to the west beyond the sound source does deflection persist). Of additional interest will be the extent of offshore (or towards shore) deflection that occurs.

Greeneridge Sciences plans to conduct the whale migration monitoring using the passive acoustics techniques developed and used successfully since 2001 for monitoring the migration past BP's Northstar production island northwest of Prudhoe Bay. Those techniques involve using directional autonomous seafloor acoustic recorders (DASARs) to measure the arrival angles of bowhead calls at known locations, then triangulating to locate the calling whale. Thousands, in some years tens of thousands, of whale calls have been located each year since 2001. Greeneridge Sciences developed and tested a new model of DASAR under SOI's sponsorship in 2006. The new design proved to be operational during field deployment in 2006 and is proposed for use in the 2008 migration monitoring.

This acoustic localization method will provide important information for addressing the whale deflection question. As compared with aerial surveys, acoustic methods have the advantage of providing a vastly larger number of whale detections, and can operate day or night, independent of visibility, and to some degree independent of ice conditions and sea state—all of which prevent or impair aerial surveys. However, acoustic methods depend on the animals to call, and to some extent assume that calling

rate is unaffected by exposure to industrial noise. Bowheads do call frequently in fall, but there is some evidence that their calling rate may be reduced upon exposure to industrial sounds, complicating interpretation. The combined use of acoustic and aerial survey methods will provide a suite of information that should be very useful in assessing the potential effects of drilling operations on migrating bowhead whales.

The objective of this study is to provide information on bowhead migration paths along the Alaskan coast, particularly with respect to industrial operations and whether and to what extent there is deflection due to industrial sound levels. Using passive acoustics with directional autonomous recorders, the locations of calling whales will be observed for a six- to ten-week continuous monitoring period at five coastal sites (subject to favorable ice and weather conditions). Essential to achieving this objective is the continuous measurement of sound levels near the drillship. For more information on SOI's proposed acoustic program, please see its IHA application.

### Reporting

#### *Daily Reporting*

In its IHA application, SOI proposes to collect, via the aerial flights, unanalyzed bowhead sighting and flightline data which will be exchanged between MMS and SOI on a daily basis during the field season. Each team will also submit its sighting information to NMFS in Anchorage each day. After the SOI and MMS data files have been reviewed and finalized, they will be shared in digital form.

#### *90-day Technical Report*

The results of the 2008 SOI vessel-based monitoring, including estimates of take by harassment, will be presented in the "90 day and technical report(s)" that are usually required by NMFS under IHAs. SOI proposes that these technical report(s) will include: (1) summaries of monitoring effort: total hours, total distances, and distribution through study period, sea state, and other factors affecting visibility and detectability of marine mammals; (2) analyses of the effects of various factors influencing detectability of marine mammals: sea state, number of observers, and fog/glare; (3) species composition, occurrence, and distribution of marine mammal sightings including date, water depth, numbers, age/size/gender categories, group sizes, and ice cover; (4) sighting rates of marine mammals versus

operational state (and other variables that could affect detectability); (5) initial sighting distances versus operational state; (6) closest point of approach versus seismic state; (7) observed behaviors and types of movements versus operational state; (8) numbers of sightings/individuals seen versus operational state; (9) distribution around the drilling vessel and support vessels versus operational state; and (10) estimates of take based on (a) numbers of marine mammals directly seen within the relevant zones of influence (160 dB, 180 dB, 190 dB (if SPLs of that level are measured)), and (b) numbers of marine mammals estimated to be there based on sighting density during daytime hours with acceptable sightability conditions.

In addition, the 90-day report will contain an analysis of all acoustic data in order to address the following primary data analysis questions: (a) to determine when, where, and what species of animals are acoustically detected on each DASAR, (b) to analyze data as a whole to determine offshore distributions as a function of time, (c) to quantify spatial and temporal variability in the ambient noise, and (d) to measure received levels of seismic survey events and drill ship activities. The detection data will be used to develop spatial and temporal animal detection distributions. Statistical analyses will be used to test for changes in animal detections and distributions as a function of different variables (e.g., time of day, time of season, environmental conditions, ambient noise, vessel type, operation conditions).

#### *Comprehensive Report*

Following the 2008 open-water season a comprehensive report describing the proposed acoustic, vessel-based, and aerial monitoring programs will be prepared. The comprehensive report will describe the methods, results, conclusions and limitations of each of the individual data sets in detail. The report will also integrate (to the extent possible) the studies into a broad based assessment of industry activities and their impacts on marine mammals in the Beaufort Sea during 2008. The report will form the basis for future monitoring efforts and will establish long term data sets to help evaluate changes in the Beaufort Sea ecosystem. The report will also incorporate studies being conducted in the Chukchi Sea and will attempt to provide a regional synthesis of available data on industry activity in offshore areas of northern Alaska that may influence marine mammal density, distribution and behavior.

This report will consider data from many different sources including two

relatively different types of aerial surveys; several types of acoustic systems for data collection (net array, vertical array, DASARB, and OBH systems), and vessel based observations. Collection of comparable data across the wide array of programs will help with the synthesis of information. However, interpretation of broad patterns in data from a single year is inherently limited. Much of the 2008 data will be used to assess the efficacy of the various data collection methods and to establish protocols that will provide a basis for integration of the data sets over a period of years.

### Endangered Species Act (ESA)

NMFS issued a Biological Opinion on June 16, 2006, regarding the effects of this action on ESA-listed species and critical habitat under the jurisdiction of NMFS. The Opinion concluded that this action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. Due to the presence of fin and humpback whales in the Chukchi and Beaufort seas in 2007, the MMS has begun additional consultation on the proposed seismic survey activities in the Beaufort and Chukchi seas during 2008. NMFS will also consult on the issuance of the IHA under section 101(a)(5)(D) of the MMPA to SOI for this activity. Consultation will be concluded prior to NMFS making a determination on the issuance of an IHA. A copy of the 2006 Biological Opinion is available at: <http://www.mms.gov/alaska/ref/BioOpinions/ARBOIII-2.pdf>.

### National Environmental Policy Act (NEPA)

In July, 2004, the MMS prepared an EA for LS-195 to determine whether or not new information indicates that the proposed lease sale would cause new significant impacts; ones that were not addressed in the Final EIS for Beaufort Sea Planning Area Oil and Gas Lease Sales 186, 195, and 202 (MMS, 2003a) (the Multiple-Sale EIS). This EA incorporated all of the relevant material in the Multiple-Sale EIS by reference. It also reexamined the potential environmental effects of the Proposed Action and alternatives as a result of new information on potential impacts and issues that were not available at the time MMS completed the Multiple-Sale EIS in February 2003. Because the Beaufort Sea sale proposals and projected activities are very similar, if not almost identical for each lease sale, MMS prepared a single EIS for all three Beaufort Sea sales that was first analyzed in the 5-year OCS Leasing

Program for 2002–2007 (MMS, 2002a). The Multiple-Sale approach focuses the NEPA/EIS process on the identification of differences among the proposed sales and on new information and issues.

Subsequent to releasing the EA on LS–195, in August, 2006, MMS released a third NEPA document for the proposed Beaufort Sea Planning Area OCS LS–202. That EA further updated the information contained in the two previously mentioned NEPA documents. However, SOI's proposed 2008 exploratory drilling project is on leases obtained from MMS as a result of the Beaufort Sea LS–195, not LS 202. However, the EA for LS 202 updates the environmental information found in the EA for LS 195.

The MMS made a FONSI for LS–195 on July 2, 2004, based on information contained within its EA, that implementation of the subject action is not a major Federal action having significant effects on the environment within the meaning of NEPA. The MMS determined, therefore, that a new EIS would not be prepared.

In accordance with NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has reviewed the information contained in these three MMS NEPA documents and determined that while these NEPA documents accurately and completely describe the environmental setting for NMFS' proposed action (the 20087 SOI exploratory drilling project) and other identified alternatives, the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives has not been fully described and analyzed, especially as it relates to NMFS' issuance of authorizations under the MMPA, and the potential impacts due to NMFS' IHA issuance. To update these documents, NMFS completed its own EA in 2007 which incorporates by reference relevant information contained in the Multiple-Sale EIS, the Beaufort Sea Lease Sale 195 EA, and the Beaufort Sea Lease Sale 202 EA. On October 24, 2007, NMFS also issued a FONSI to support theon its issuance of an IHA to SOI for taking marine mammals incidental to its offshore drilling project. As a result of the EA and FONSI, NMFS has determined that the preparation of an EIS was not necessary and none was prepared. A copy of NMFS' EA and FONSI for this action are available electronically (see ADDRESSES).

For 2008, NMFS has preliminarily determined that the proposed action discussed in this document is not substantially different from the 2007 action. A final decision on whether the action differs in a manner requiring NMFS to amend its 2007 EA and issue a new FONSI will be made by NMFS prior to making a final decision on the proposed issuance of an IHA to SOI for this activity.

#### Preliminary Conclusions

Based on the information provided in SOI's application and other referenced documentation, NMFS has preliminarily determined that the impact of SOI conducting its exploratory, tophole and geotechnical drilling programs in the U.S. Beaufort Sea in 2008 will have no more than a negligible impact on a small number of marine mammals. NMFS has preliminarily determined that the short-term impact of conducting exploratory drilling by the two drilling vessels (*Kulluk* and the geotechnical vessel) and by supporting vessels, including ice management vessels in the U.S. Beaufort Sea may result, at worst, in a temporary modification in behavior by certain species of marine mammals, including vacating the immediate vicinity around the two activity areas due to noise resulting from drilling and ship movements.

While behavioral and avoidance reactions may be made by these species in response to the resultant noise, this behavioral change is expected to have a negligible impact on the animals. While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of drilling operations, the number of potential harassment takings is estimated to be small as indicated in Tables 1, 2 and 3 in this document. In addition, no take by death and/or serious injury is anticipated or would be authorized; there is almost a zero potential for an oil spill to result from the drilling activity as it will not penetrate into oil bearing strata, and the potential for temporary or permanent hearing impairment is low due to the low SPLs associated with drilling activities. Also, harassment takings are likely to be minimized through the incorporation of the monitoring and mitigation measures mentioned in this document and required by the authorization. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the

planned area of operations during the season of operations.

As SOI notes in its IHA application, there could be an adverse impact on the Inupiat bowhead subsistence hunt if the whales were deflected seaward (further from shore) in the traditional hunting areas north of Pt. Thomson in Camden Bay. NMFS believes that this could result in whaling crews being forced to travel greater distances to intercept westward migrating whales thereby creating a significant safety hazard for whaling crews (with a potential loss of life), limiting chances of successfully striking and landing bowheads, and/or not landing bowheads quickly before decomposition and spoilage occurs. Prior to issuing an IHA for activities that take place in Arctic waters, NMFS must ensure that the taking by the activity will not have an unmitigable adverse impact on subsistence uses of marine mammals. In 50 CFR 216.103, NMFS has defined an "unmitigable adverse impact" to mean:

an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

SOI states that the potential impact on subsistence users of marine mammals will be reduced mitigated throughby the application of mitigation procedures described in its application and implemented by a CAA between the SOI, the AEWC and the whaling captains' associations of Kaktovik, Nuiqsut and Barrow. Mitigation measures implemented by NMFS under Letters of Authorization or IHAs previously included: (1) warm shutdown of drilling operations during the subsistence hunt, and (2) moving the drilling vessels either further offshore or behind the barrier islands. For example, in 2007, measures taken to ensure that there would not be an unmitigable adverse impact on subsistence uses of marine mammals included: (1) limiting the activity to a single exploratory drilling vessel, (2) cease drilling operations beginning August 25, 2007, and (3) to relocate all equipment and related vessels offsite no later than August 27, 2007.

Therefore, presuming that effective mitigation and monitoring measures will be contained in SOI's 2008 IHA and will be fully implemented by SOI, NMFS has preliminarily determined

that SOI's proposed drilling and geotechnical activity would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and, subject to development of mitigation measures during discussions with interested parties, would not have an unmitigable adverse impact on the availability of species or stocks for subsistence uses. In addition, implementation of these effective mitigation measures ensures that the taking, by Level B harassment of marine mammals by SOI's offshore drilling activity will have the least practicable effect on marine mammal individuals and populations.

As a result, NMFS proposes to issue an IHA to SOI for conducting an offshore drilling program in the U.S. Beaufort Sea in 2008, provided the previously mentioned monitoring and reporting requirements are incorporated.

Dated: May 29, 2008.

**Helen W. Golde**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*  
[FR Doc. E8-12513 Filed 6-3-08; 8:45 am]

**BILLING CODE 3510-22-S**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation") has submitted a public information collection request (ICR) entitled Annual Reporting Questions for Program Development and Training grants, and Disability Inclusion grants to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Amy Borgstrom at (202) 606-6930. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565-2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory

Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

- (1) By fax to: (202) 395-6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and
- (2) Electronically by e-mail to: [Katherine\\_T.\\_Astrich@omb.eop.gov](mailto:Katherine_T._Astrich@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

### Comments

A 60-day public comment Notice was published in the **Federal Register** on Tuesday, March 4, 2008. This comment period ended May 5, 2008. No public comments were received from this Notice.

**Description:** The Corporation is seeking approval of the attached Annual Reporting Questions for Program Development and Training grants, and Disability Inclusion grants. Applicants will respond to the questions included in this ICR in order to report on their use of federal funds and progress against their annual plan.

**Type of Review:** New Information Collection.

**Agency:** Corporation for National and Community Service.

**Title:** Annual Reporting Questions for Program Development and Training grants, and Disability Inclusion grants.

**OMB Number:** None.

**Agency Number:** None.

**Affected Public:** State service commissions.

**Total Respondents:** 54.

**Frequency:** Annually.

**Average Time per Response:** 8 hours.  
**Estimated Total Burden Hours:** 432 hours.

**Total Burden Cost (capital/startup):** None.

**Total Burden Cost (operating/maintenance):** None.

Dated: May 19, 2008.

**Kristin McSwain,**

*Director, AmeriCorps State and National.*

[FR Doc. E8-12486 Filed 6-3-08; 8:45 am]

**BILLING CODE 6050--\$-P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation") has submitted a public information collection request (ICR) entitled CNCS Application Instructions and Reporting Questions to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Amy Borgstrom at (202) 606-6930. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565-2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

- (1) By fax to: (202) 395-6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and
- (2) Electronically by e-mail to: [Katherine\\_T.\\_Astrich@omb.eop.gov](mailto:Katherine_T._Astrich@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

### Comments

A 60-day public comment Notice was published in the **Federal Register** on Tuesday, February 13, 2008. This comment period ended April 14, 2008. No public comments were received from this Notice. Corporation staff provided two comments. Three staff commenters suggested raising the number of annual respondents from 600 to 2,000 based on our experience with such competitions conducted by the Corporation. This suggestion has been incorporated. Another staff commenter suggested incorporating the questions used for annual reporting for successful applicants in this information collection. This suggestion has also been incorporated.

*Description:* The Corporation is soliciting comments concerning application instructions designed to be used for grant competitions which the Corporation sponsors from time to time. These competitions are designed and conducted, when appropriations are available, to address the Corporation's strategic initiatives or other priorities. Applicants will respond to the questions included in these instructions in order to apply for funding in these Corporation competitions. Successful applicants will report on an annual basis on their progress using the attached Annual Reporting Questions. Their Annual Reports will provide information for Corporation staff to monitor grantee progress, and to respond to requests from Congress and other stakeholders.

*Type of Review:* New Information Collection.

*Agency:* Corporation for National and Community Service.

*Title:* CNCS Application Instructions and Reporting Questions.

*OMB Number:* None.

*Agency Number:* Potential beneficiaries.

*Total Respondents:* 2,000 applicants and 200 successful applicants.

*Frequency:* Annually.  
*Average Time per Response:* 8 hours to apply and 8 hours to report.  
*Estimated Total Burden Hours:* 17,600 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Dated: May 21, 2008.

**David Eisner,**

*CEO, Corporation for National and Community Service.*

[FR Doc. E8-12488 Filed 6-3-08; 8:45 am]

**BILLING CODE 6050--SS-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Base Closure and Realignment

**AGENCY:** Department of Defense, Office of Economic Adjustment.

**ACTION:** Notice.

**SUMMARY:** This notice is provided pursuant to section 2905(b)(7)(B)(ii) of the Defense Base Closure and Realignment Act of 1990. It provides a partial list of military installations closing or realigning pursuant to the 2005 Defense Base Closure and Realignment (BRAC) Report. It also provides a corresponding listing of a successor Local Redevelopment Authority (LRA) for Navy-Marine Corps Reserve Center Reading, Pennsylvania and PFC Daniel L. Wagenaar U.S. Army Reserve Center, Pasco, Washington recognized by the Secretary of Defense, acting through the Department of Defense Office of Economic Adjustment (OEA), as well as the point of contact, address, and telephone number for the successor LRA for the installation. Representatives of state and local governments, homeless providers, and other parties interested in the redevelopment of the installation should contact the person or organization listed. The following information will also be published simultaneously in a newspaper of general circulation in the area of the installation. There will be additional notices providing this same information about LRAs for other closing or realigning installations where surplus government property is available as those LRAs are recognized by the OEA.

**EFFECTIVE DATE:** June 4, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Director, Office of Economic Adjustment, Office of the Secretary of Defense, 400 Army Navy Drive, Suite 200, Arlington, VA 22202-4704, (703) 604-6020.

## Local Redevelopment Authorities (LRAs) for Closing and Realigning Military Installations

### Pennsylvania

*Installation Name:* Navy-Marine Corps Reserve Center Reading.

*LRA Name:* City of Reading Local Redevelopment Authority, successor to Reading Berks Public Safety Local Redevelopment Authority.

*Point of Contact:* Ryan P. Hottenstein, Acting Managing Director.

*Address:* City Hall, Room 2-27, Reading, PA 19601.

*Phone:* (610) 655-6222.

### Washington

*Installation Name:* PFC Daniel L. Wagenaar U.S. Army Reserve Center.

*LRA Name:* City of Pasco, successor to Port of Pasco.

*Point of Contact:* Jeffrey B. Adams, Associate Planner, City of Pasco.

*Address:* 525 N 3rd Avenue, P.O. Box 293, Pasco, WA 99301.

*Phone:* (509) 545-3441.

Dated: May 23, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. E8-12439 Filed 6-3-08; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Health Board (DHB) Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. & 552b, as amended), and 41 CFR & 102-3.150, and in accordance with section 10(a)(2) of Public Law, the following meeting is announced:

*Name of Committee:* Traumatic Brain Injury Family Caregiver Panel, a subcommittee of the Defense Health Board

**DATES:** June 17 and 18, 2008

June 17, 2008

8:15 a.m.-10:15 a.m. (Open session)

10:45 a.m.-12 p.m. (Open session)

12:45 p.m.-4:45 p.m. (Open session)

6 p.m.-8 p.m. (Town Hall Meeting—

Open session)

June 18, 2008

8:15 a.m.-11:45 a.m. (Open session)

11:45 a.m.-2:30 p.m. (Open session)

**ADDRESSES:** The Hilton, 8727 Colesville Road, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:**

Colonel Roger L. Gibson, Executive

Secretary, Defense Health Board, Five Skyline Place, 5111 Leesburg Pike, Room 810, Falls Church, Virginia 22041-3206; Phone: (703) 681-1712; Fax: (703) 681-3321, [roger.gibson@ha.osd.mil](mailto:roger.gibson@ha.osd.mil). Written statements may be mailed to the above address, e-mailed to [dhb@ha.osd.mil](mailto:dhb@ha.osd.mil) or faxed to (703) 681-3321.

**SUPPLEMENTARY INFORMATION:** *Purpose of the Meeting:* The Traumatic Brain Injury Family Caregiver Panel is a Congressionally-directed subcommittee of the Defense Health Board whose mission is to develop training curricula to be used by family members of Service members of the Armed Forces. The purpose of the meeting is to deliberate and vote on matters related to the development of the Traumatic Brain Injury Family Caregiver curriculum.

The Defense Health Board is a Federal Advisory Committee and a continuing independent scientific advisory body to the Secretary of Defense via the Assistant Secretary of Defense for Health Affairs and the Surgeons General of the Military Departments.

*Agenda:* The panel will formulate and approve a definition for the term Family Caregiver to be used throughout the curriculum. The panel will review and approve an outline for the curriculum. The panel will host a town hall meeting to seek public input for the content of the curriculum. The approved outline, will be used by a team of health education writers to produce the curriculum.

Pursuant to 5 U.S.C. & 552b, as amended, and 41 CFR & 102-3.140 through 102-3.615 and subject availability of space, the Traumatic Brain Injury Family Caregiver Panel meeting from 8:15 a.m. to 8 p.m. on June 17, 2008 and from 8:15 a.m. to 2:30 p.m. on June 18, 2008 is open to the public. Any member of the public wishing to provide input to the Traumatic Brain Injury Family Caregiver Panel should submit a written statement in accordance with 41 CFR & 102-3.140(C) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice. Written statement should be no longer than two type-written pages and must address the following detail: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals desiring to submit a written statement may do so through the Panel's Designated Federal Officer at the address detailed above at any point.

However, if the written statement is not received at least 10 calendar days prior to the meeting, which is subject to this notice, then it may not be provided to or considered by the Traumatic Brain Injury Family Caregiver Panel until the next open meeting.

The Designated Federal Officer will review all timely submissions with the Traumatic Brain Injury Family Caregiver Panel Chairperson, and ensure they are provided to members of the Traumatic Brain Injury Family Caregiver Panel before the meeting that is subject to this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or a future meeting. The Designated Federal Officer, in consultation with the Traumatic Brain Injury Family Caregiver Panel Chairperson, may if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the Traumatic Brain Injury Family Caregiver Panel.

Dated: May 28, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12471 Filed 6-3-08; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Meeting of the Defense Policy Board Advisory Committee

**AGENCY:** Department of Defense, Defense Policy Board Advisory Committee.

**ACTION:** Notice.

**SUMMARY:** The Defense Policy Board Advisory Committee will meet in closed session on June 19, 2008 from 0800 until 2030 and June 20, 2008 from 0900 until 1330 at the Pentagon.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended [5 U.S.C. App II (1982)], it has been determined that this meeting concerns matters listed in 5 U.S.C. 552B (c)(1)(1982), and that accordingly this meeting will be closed to the public.

Dated: May 23, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12436 Filed 6-3-08; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meetings.

**SUMMARY:** The Defense Science Board 2008 Summer Study on Capability Surprise will meet in closed session on June 10-12, 2008; at SAI, Liberty Conference Center, 4075 Wilson Blvd., Suite 300, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:**

LtCol Chad Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301-3140, via e-mail at [charles.lominac@osd.mil](mailto:charles.lominac@osd.mil), or via phone at (703) 571-0082.

**SUPPLEMENTARY INFORMATION:** The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Board will discuss interim findings and recommendations resulting from ongoing Task Force activities. The study will focus on the whats and whys of capability surprise and the measures to ensure that DoD and its interested partners are best positioned to prevent, or mitigate, capability surprise against itself. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. 2) and 41 CFR 102-3.155, the Department of Defense has determined that these Defense Science Board Quarterly meetings will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology and Logistics), with the coordination of the DoD Office of General Counsel, has determined in writing that all sessions of these meetings will be closed to the public because they will be concerned

throughout with matters listed in 5 U.S.C. 552b(c)(1).

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: May 23, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12435 Filed 6-3-08; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meetings.

**SUMMARY:** The Defense Science Board 2008 Summer Study on Capability Surprise will meet in closed session on July 22-24, 2008; at SAI, Liberty Conference Center, 4075 Wilson Blvd., Suite 300, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** LtCol Chad Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301-3140, via e-mail at [charles.lominac@osd.mil](mailto:charles.lominac@osd.mil), or via phone at (703) 571-0082.

**SUPPLEMENTARY INFORMATION:** The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Board will discuss interim finding and recommendations resulting from ongoing Task Force activities. The study will focus on the whats and whys of capability surprise and the measures to ensure that DoD and its interested partners are best positioned to prevent, or mitigate, capability surprise against itself. The Board will also discuss plans for future consideration of scientific and

technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. app. 2), and 41 CFR 102-3.155, the Department of Defense has determined that these Defense Science Board Quarterly meetings will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology and Logistics), with the coordination of the DoD Office of General Counsel, has determined in writing that all sessions of these meetings will be closed to the public because they will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(1).

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point; however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

May 23, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12497 Filed 6-3-08; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meetings.

**SUMMARY:** The Defense Science Board 2008 Summer Study on Capability Surprise will meet in closed session on June 25-27, 2008; at SAI, Liberty Conference Center, 4075 Wilson Blvd., Suite 300, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** Lt Col Chad Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301-3140, via e-mail at

[charles.lominac@osd.mil](mailto:charles.lominac@osd.mil), or via phone at (703) 571-0082.

**SUPPLEMENTARY INFORMATION:** The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Board will discuss interim finding and recommendations resulting from ongoing Task Force activities. The study will focus on the whats and whys of capability surprise and the measures to ensure that DoD and its interested partners are best positioned to prevent, or mitigate, capability surprise against itself. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App. 2) and 41 CFR 102-3.155, the Department of Defense has determined that these Defense Science Board Quarterly meeting will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology and Logistics), with the coordination of the DoD Office of General Counsel, has determined in writing that all sessions of these meetings will be closed to the public because they will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(1).

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed above, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

Dated: May 23, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12498 Filed 6-3-08; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF DEFENSE****Office of the Secretary****Meeting of the Historical Advisory Committee****AGENCY:** Department of Defense.**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with the provisions of the Federal Advisory Committee Act, this notice announces a meeting of the Department of Defense Historical Advisory Committee. The committee will discuss the Department of the Army Historical Advisory Subcommittee's report and recommendations. The meeting will be open to the public.

**DATES:** Tuesday, June 24 at 10 a.m.**ADDRESSES:** The meeting will be held on the 5th Floor, Suite 5000, 1777 North Kent Street, Arlington, VA 22209-2133.

**FOR FURTHER INFORMATION CONTACT:** Ms. Pamela Bennett at 703-588-7889 or Ms. Carolyn Thorne at 703-588-7890 for information, and upon arrival at the building in order to be admitted.

May 23, 2008.

**Patricia L. Toppings,***OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12438 Filed 6-3-08; 8:45 am]

BILLING CODE 5001-06-P

**DEPARTMENT OF DEFENSE****Office of the Secretary****Strategic Environmental Research and Development Program, Scientific Advisory Board****AGENCY:** Department of Defense.**ACTION:** Notice.

**SUMMARY:** This Notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The topic of the meeting on June 11-12, 2008 is to review new start and continuing research and development projects requesting Strategic Environmental Research and Development Program funds in excess of \$1M. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

**DATES:** Wednesday, June 11, 2008 from 9 a.m. to 12 p.m.; Thursday, June 12, 2008 from 8 a.m. to 2:20 p.m.**ADDRESSES:** Holiday Inn Express Hotel & Suites, 1706 Skibo Road, Fayetteville, NC 28303.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jonathan Bunker, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA 22203, or by telephone at (703) 696-2126.

Dated: May 23, 2008.

**Patricia L. Toppings,***OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-12437 Filed 6-3-08; 8:45 am]

BILLING CODE 5001-06-P

**DEPARTMENT OF EDUCATION****Office of Postsecondary Education; Overview Information; Teachers for a Competitive Tomorrow: Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, With Concurrent Teacher Certification; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008.**

Catalog of Federal Domestic Assistance (CFDA) Number: 84.381A.

**DATES:** *Applications Available:* June 6, 2008.*Deadline for Transmittal of Applications:* July 21, 2008.*Deadline for Intergovernmental Review:* September 17, 2008.**Full Text of Announcement****I. Funding Opportunity Description**

*Purpose of Program:* The purpose of this program is to develop and implement programs to provide integrated courses of study that lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

*Priorities:* This notice contains one absolute priority and two invitational priorities. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priority is from section 6113(c) of the America COMPETES Act, 20 U.S.C 9813(c).

*Absolute Priority:* We are establishing this priority for the FY 2008 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition. This priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Projects whose primary focus is on placing participants in high-need local educational agencies (LEAs). The definition of high-need LEA can be found in the America COMPETES Act, title VI, section 6112(3), and is described below.

*Invitational Priority:* Under this competition we are particularly interested in applications that address the following priority.

For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects that propose to design specialized undergraduate programs specifically tailored to assist native speakers of critical foreign languages in becoming certified teachers *OR* programs that offer research-based teacher preparation programs suited to the particular needs of science, technology, engineering, or mathematics students.

*Definition:* For purposes of this competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, critical foreign languages are defined as Arabic, Chinese, Japanese, Korean, Russian, Hindi, Urdu, Persian, and Turkish. Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed definitions. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, definitions governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under 20 U.S.C. 9811, *et seq.* and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the definition of critical foreign languages under section 437(d)(1) of GEPA. This definition will apply to the FY 2008 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

**Program Authority:** 20 U.S.C. 9811, *et seq.*

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, 86, 97, 98, and 99.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

**II. Award Information***Type of Award:* Discretionary grants.*Estimated Available Funds:* \$900,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2009 from the list of unfunded applicants from this competition.

*Estimated Range of Awards:*  
\$200,000–\$250,000.

*Estimated Average Size of Awards:*  
\$225,000.

*Maximum Award:* We will reject any application that proposes a budget exceeding \$250,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 4.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

### III. Eligibility Information

1. *Eligible Applicants:* An institution of higher education on behalf of a department of science, technology, engineering, mathematics, or a critical foreign language, or on behalf of a department or school with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification.

Eligible applicants must enter into a partnership that shall include:

- i. An eligible applicant;
- ii. (a) A department within the eligible applicant that provides a program of study in science, technology, engineering, mathematics, or a critical foreign language; and (b) A school, department, or program of education within the eligible applicant, or a two-year institution of higher education that has a teacher preparation offering or a dual enrollment program with the eligible applicant; or
- iii. A department or school within the eligible applicant with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification; and
- iv. Not less than one high-need LEA and a public school or a consortium of public schools served by the agency.

A partnership may include a nonprofit organization that has a demonstrated record of providing expertise or support to meet the purposes of this initiative.

2. a. *Cost Sharing or Matching:* Under 20 U.S.C. 9815(b), each grant recipient must provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant to carry out the activities supported by the grant.

b. *Supplement-Not-Supplant:* Under 20 U.S.C. 9815(c), grant funds provided under this program must be used to supplement, and not supplant, other Federal or State funds.

3. *Other:* Definition of “high-need LEA” and other eligibility information. An eligible applicant must propose a project performed by a partnership that includes one or more “high-need LEAs.” As defined in section 6112(3) of the America COMPETES Act, the term “high-need LEA” is an LEA—

(A)(1) That serves not fewer than 10,000 children from low-income families, or (2) for which not less than 20 percent of the children served by the LEA are from low-income families, or (3) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; and

(B)(1) for which there is a high percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or (2) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

So that the Department may be able to confirm the eligibility of the LEAs participating in the project, applicants are expected to include information in their applications that demonstrates that each participating LEA in the partnership is a high-need LEA, as defined in 20 U.S.C. 9812(3). Generally, this information should be based on the most recent available data on the number of children from low-income families that the LEA serves. Under components (A)(1) and (A)(2) of the statutory definition of high-need LEA, an LEA must show that it serves not fewer than 10,000 children from low-income families or that not less than 20 percent of the children served by the agency are children from low-income families. Under 20 U.S.C. 9812(1), the term “children from low-income families” means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 6333(c)(1)(A). The eligibility of an LEA as a “high-need LEA” under component (A)(1) or (A)(2) will be determined on the basis of the most recent U.S. Census Bureau data. U.S. Census Bureau data are available for all school districts with geographic boundaries that existed when the U.S. Census Bureau collected its information. The link to the census data is: <http://www.census.gov/hhes/www/saipe/district.html>. The Department also

makes these data available at its Web site at: <http://www.ed.gov/programs/isl/eligibility.html>.

Some LEAs, such as newly formed school districts or charter schools in States that accord them LEA status, are not included in Census Bureau poverty data. Eligibility of these particular LEAs will be determined on a case-by-case basis after review of information in the application that addresses, as well as possible, the number or percentage of children from low-income families these LEAs serve.

The school locale codes referenced in component (A)(3) of the definition of “high-need LEA” are part of a classification system designed to describe a geographic area in which a school is located. Locale codes 41, 42, and 43 relate to rural areas. General information regarding the locale classification system and information regarding the locale codes for specific LEAs is available on the National Center for Education Statistics (NCES) Web site at: [http://nces.ed.gov/ccd/rural\\_locales.asp](http://nces.ed.gov/ccd/rural_locales.asp).

With regard to component (B)(1) of the definition of “high-need LEA,” for purposes of this program, an LEA has “a high percentage of teachers providing instruction in the academic subject areas or grade levels for which the teachers are not highly qualified” if the percentage of its classes taught by teachers who are not highly qualified exceeds the percentage for the State. The Department expects that LEAs that rely on component (B)(1) of the definition will demonstrate their eligibility with information regarding the percentage of teachers providing instruction in the academic subject areas or grade levels for which the teachers are not highly qualified in the LEA and the State.

For component (B)(2) of the definition of “high-need LEA,” the data that LEAs likely will find most readily available on the percentage of teachers with emergency, provisional, or temporary certification or licensing are the data they provide to their States for inclusion in the reports on the quality of teacher preparation that the States provide to the Department in October of each year as required by Section 207 of the Higher Education Act of 1965, as amended (HEA). In these reports, States provide the percentage of teachers in their LEAs teaching on waivers of State certification, both on a statewide basis and in high-poverty LEAs. The “provisional” HEA Title II accountability data for the national percentage of teachers on waivers to full State certification is 1.5 percent for the 2006–2007 reporting year.

Because the Department is in the process of certifying all data received in the October 2007 State HEA Section 207 reports, the data in these reports, including the national average of teachers on waivers of State certification, are still provisional. However, to provide adequate time for the preparation and review of project applications and award of new grants, the Department will use the 1.5 percent national average for the purpose of this competition. Accordingly, an LEA will be considered to have met component (B)(2) of the definition if the data that it provided to the State for the purpose of the State's October 2007 HEA Section 207 report demonstrate that at least 1.5 percent of its teachers were on waivers of State certification requirements.

Consistent with the methodology the Department uses in the Transition to Teaching Program, in which participating LEAs were required to be "high-need LEAs" (as defined in Section 2102(3) of the ESEA), the Department will determine that an LEA with over 1.5 percent of its teachers having emergency, provisional, or temporary certification or licensing (i.e., teachers on waivers), as reflected in data the State uses to compile its October 2007 State report, has a "high percentage" of its teachers in this category. We expect that an LEA that chooses not to rely on the data provided to the State for purposes of October 2007 reporting required by Section 207 of the HEA will provide other evidence that demonstrates that it meets the eligibility requirement under component (B)(2) of the statutory definition of "high-need LEA." Moreover, should an LEA with a percentage of teachers on waivers of less than 1.5 percent believe it, too, has a "high percentage" of its teachers with emergency, provisional, or temporary certification or licensing, the Department will determine whether that LEA meets element (B)(2) of the definition of high-need LEA on a case-by-case basis.

Under element (B)(2), an LEA may also demonstrate that it is "high-need" by demonstrating that it has a high teacher turnover rate. For this program, we adopt the standard used in the Teacher Quality Enhancement Grants Program, under which the Department considers "high teacher turnover" to be an attrition rate among classroom teachers of 15 percent or more over the last three school years. See 34 CFR 611.1 (definition of "high-need local educational agency"). This standard is consistent with Department data that indicates that 16 percent of teachers teaching during the 2003–04 school year

did not return to teach in the same school the following school year. See Marvel, J., Lyter, D.M., Peltola, P., Strizek, G.A., and Morton, B.A. (2006). *Teacher Attrition and Mobility: Results from the 2004–05 Teacher Follow-up Survey* (NCES 2007–307). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

#### IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet by downloading the package at <http://www.Grants.gov>.

You also may obtain a copy of the application package at the following address: Brenda Shade, Teachers for a Competitive Tomorrow Program—Baccalaureate Degrees, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006–8513. Telephone: (202) 502–7773 or by e-mail: [Brenda.Shade@ed.gov](mailto:Brenda.Shade@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

*Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 50 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger, or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:* *Applications Available:* June 6, 2008. *Deadline for Transmittal of Applications:* July 21, 2008.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, if you qualify for an exception to the electronic submission requirement, please refer to Section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

*Deadline for Intergovernmental Review:* September 17, 2008.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically, unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Teachers for a Competitive Tomorrow: Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, with Concurrent Teacher

Certification Competition, CFDA Number 84.381A must be submitted electronically using the Government-wide Grants.gov Apply site at: <http://www.Grants.gov>. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Teachers for a Competitive Tomorrow: Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, with Concurrent Teacher Certification at <http://www.Grants.gov>. You must search for the downloadable application package for this program by the CFDA Number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.381, not 84.381A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary

depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at <http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf>.

To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see [http://www.grants.gov/applicants/get\\_registered.jsp](http://www.grants.gov/applicants/get_registered.jsp)). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see <http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf>). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition, you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—

have replaced the ED 424 (Application for Federal Education Assistance).

- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

- Your electronic application must comply with any page-limit requirements described in this notice.

- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award Number (an ED-specified identifying number unique to your application).

- We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1-800-518-4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington,

DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

**Exception to Electronic Submission Requirement:** You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days) or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday, you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Brenda Shade, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006–8526. FAX: (202) 502–7699.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

**b. Submission of Paper Applications by Mail.**

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

*By mail through the U.S. Postal Service:*  
U.S. Department of Education,  
Application Control Center,

Attention: (CFDA Number 84.381A),  
400 Maryland Avenue, SW.,  
Washington, DC 20202–4260; or  
*By mail through a commercial carrier:*  
U.S. Department of Education,  
Application Control Center, Stop  
4260, Attention: (CFDA Number  
84.381A), 7100 Old Landover Road,  
Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

**c. Submission of Paper Applications by Hand Delivery.**

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.381A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department—

- (1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA Number, including suffix letter, if any, of the competition under which you are submitting your application; and
- (2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the

application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

**V. Application Review Information**

**Selection Criteria:** The selection criteria for this program are from section 6113 of the America COMPETES Act, 20 U.S.C. 9813 and from EDGAR and are listed in the application package.

**VI. Award Administration Information**

**1. Award Notices:** If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

**2. Administrative and National Policy Requirements:** We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

**3. Reporting:** At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please review section 6113(e) of the America COMPETES Act, 20 U.S.C. 9813(e), and go to <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>.

**4. Performance Measures:** The objective of Teachers for a Competitive Tomorrow: Programs for Baccalaureate Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Languages, with Concurrent Teacher Certification, is to train program participants as highly qualified teachers in these subject areas and to place them in high-need LEAs. Under the Government Performance and Results Act (GPRA), the following measures will be used by the Department in assessing the performance of the program:

(1) The percentage of program participants who earn a Bachelor's degree and certification or licensure in a science, technology, engineering, mathematics, or critical foreign language area.

(2) The percentage of program participants who become a teacher of record in a science, technology, engineering, mathematics, or critical foreign language area in a high-need school.

(3) The percentage of program participants who remain teaching in the science, technology, engineering, mathematics, or critical foreign language area in a high-need school for two or more years.

(4) The cost per program participant who remains in teaching in the science, technology, engineering, mathematics, or critical foreign language area in a high-need school for two or more years.

If funded, you will be asked to collect and report data on these measures in your project's annual performance report (EDGAR, 34 CFR 75.590). Applicants are also advised to consider these measures in conceptualizing the design, implementation, and evaluation of their proposed projects because of their importance in the application review process. Collection of data on these measures should be a part of the evaluation plan, along with measures of progress on goals and objectives that are specific to your project.

## VII. Agency Contact

*For Further Information Contact:*  
Brenda Shade, Teachers for a Competitive Tomorrow Baccalaureate Program, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006-8526. Telephone: (202) 502-7773.

If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

## VIII. Other Information

*Alternative Format:* Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

*Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF, you must have Adobe Acrobat Reader, which is available free

at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: May 30, 2008.

**Diane Auer Jones,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. E8-12511 Filed 6-3-08; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### Office of Postsecondary Education; Overview Information; Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, Technology, Engineering, Mathematics or Critical Foreign Language Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance  
(CFDA) Number: 84.381B.

**DATES:** *Applications Available:* June 6, 2008.

*Deadline for Transmittal of  
Applications:* July 21, 2008.

*Deadline for Intergovernmental  
Review:* September 17, 2008.

### Full Text of Announcement

#### I. Funding Opportunity Description

*Purpose of Program:* The purpose of the program is to develop and implement 2- or 3-year part-time master's degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and pedagogical skills; and to develop programs for professionals in science, technology, engineering, mathematics, or critical foreign language that lead to a master's degree in teaching that results in teacher certification.

*Priorities:* We are establishing this priority for the FY 2008 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

*Absolute Priority:* This priority is an absolute priority. Under 34 CFR

75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Projects whose primary focus is on placing participants in high-need local educational agencies (LEAs). The definition of high-need LEA can be found in 20 U.S.C. 9812(3), and is described below.

*Invitational Priorities:* Under this competition we are particularly interested in applications that address the following priorities.

For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

*Invitational Priority 1:* Projects that propose to design specialized master's degree programs that enable native speakers of critical foreign languages to become credentialed teachers, or that directly engage native speakers in the preparation of teachers, or programs that are uniquely designed to train science, technology, engineering, or mathematics professionals to become credentialed teachers.

*Invitational Priority 2:* Projects that propose to train prospective teachers in psychometrics, including training in developing, interpreting and using assessment results to improve classroom instruction and student achievement, or that provide teachers with experiences in rigorous research.

*Definition:* For purposes of this competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, critical foreign languages are defined as Arabic, Chinese, Japanese, Korean, Russian, Hindi, Urdu, Persian, and Turkish.

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and definitions. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under 20 U.S.C. 9811, *et seq.* and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the absolute priority and the definition of critical foreign languages under section

437(d)(1) of GEPA. This absolute priority and definition will apply to the FY 2008 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

**Program Authority:** 20 U.S.C. 9811, *et seq.*

**Applicable Regulations:** The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, 86, 97, 98, and 99.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

## II. Award Information

**Type of Award:** Discretionary grants.

**Estimated Available Funds:** \$900,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2009 from the list of unfunded applicants from this competition.

**Estimated Range of Awards:** \$200,000–\$250,000.

**Estimated Average Size of Awards:** \$225,000.

**Maximum Award:** We will reject any application that proposes a budget exceeding \$250,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

**Estimated Number of Awards:** 4.

**Note:** The Department is not bound by any estimates in this notice.

**Project Period:** Up to 60 months.

## III. Eligibility Information

1. **Eligible Applicants:** An institution of higher education on behalf of a department of science, technology, engineering, mathematics, or a critical foreign language, or on behalf of a department or school with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification. Eligible applicants must enter into a partnership that shall include:

- i. An eligible applicant;
- ii. (a) A department within the eligible applicant that provides a program of study in science, technology, engineering, mathematics, or a critical foreign language; and (b) A school, department, or program of education within the eligible applicant, or a two-year institution of higher education that has a teacher preparation offering or a dual enrollment program with the eligible applicant; or

iii. A department or school within the eligible applicant with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification; and

iv. Not less than one high-need LEA and a public school or a consortium of public schools served by the agency.

A partnership may include a nonprofit organization that has a demonstrated record of providing expertise or support to meet the purposes of this initiative.

2. a. **Cost Sharing or Matching:** Under 20 U.S.C. 9815(b), each grant recipient must provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant to carry out the activities supported by the grant.

b. **Supplement-Not-Supplant:** Under 20 U.S.C. 9815(c), grant funds provided under this program must be used to supplement, and not supplant, other Federal or State funds.

3. **Other:** Definition of “high-need LEA” and other eligibility information. An eligible applicant must propose a project performed by a partnership that includes one or more “high-need LEAs.” As defined in 20 U.S.C. 9812(3), the term “high-need LEA” is an LEA—

(A)(1) That serves not fewer than 10,000 children from low-income families, or (2) for which not less than 20 percent of the children served by the LEA are from low-income families, or (3) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; and

(B)(1) for which there is a high percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or (2) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

So that the Department may be able to confirm the eligibility of the LEAs participating in the project, applicants are expected to include information in their applications that demonstrates that each participating LEA in the partnership is a high-need LEA, as defined in 20 U.S.C. 9812(3). Generally, this information should be based on the most recent available data on the number of children from low-income families that the LEA serves. Under components (A)(1) and (A)(2) of the statutory definition of high-need LEA, an LEA must show that it serves not fewer than 10,000 children from low-income families or that not less than 20

percent of the children served by the agency are children from low-income families. Under 20 U.S.C. 9812(1), the term “children from low-income families” means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 6333(c)(1)(A). The eligibility of an LEA as a “high-need LEA” under component (A)(1) or (A)(2) will be determined on the basis of the most recent U.S. Census Bureau data. U.S. Census Bureau data are available for all school districts with geographic boundaries that existed when the U.S. Census Bureau collected its information. The link to the census data is: <http://www.census.gov/hhes/www/saife/district.html>. The Department also makes these data available at its Web site at: <http://www.ed.gov/programs/isl/eligibility.html>.

Some LEAs, such as newly formed school districts or charter schools in States that accord them LEA status, are not included in Census Bureau poverty data. Eligibility of these particular LEAs will be determined on a case-by-case basis after review of information in the application that addresses, as well as possible, the number or percentage of children from low-income families these LEAs serve.

The school locale codes referenced in component (A)(3) of the definition of “high-need LEA” are part of a classification system designed to describe a geographic area in which a school is located. Locale codes 41, 42, and 43 relate to rural areas. General information regarding the locale classification system and information regarding the locale codes for specific LEAs is available on the National Center for Education Statistics (NCES) Web site at: [http://nces.ed.gov/ccd/rural\\_locales.asp](http://nces.ed.gov/ccd/rural_locales.asp)

With regard to component (B)(1) of the definition of “high-need LEA,” for purposes of this program, an LEA has “a high percentage of teachers providing instruction in the academic subject areas or grade levels for which the teachers are not highly qualified” if the percentage of its classes taught by teachers who are not highly qualified exceeds the percentage for the State. The Department expects that LEAs that rely on component (B)(1) of the definition will demonstrate their eligibility with information regarding the percentage of teachers providing instruction in the academic subject areas or grade levels for which the teachers are not highly qualified in the LEA and the State.

For component (B)(2) of the definition of “high-need LEA,” the data that LEAs likely will find most readily available

on the percentage of teachers with emergency, provisional, or temporary certification or licensing are the data they provide to their States for inclusion in the reports on the quality of teacher preparation that the States provide to the Department in October of each year as required by Section 207 of the Higher Education Act of 1965, as amended (HEA). In these reports, States provide the percentage of teachers in their LEAs teaching on waivers of State certification, both on a statewide basis and in high-poverty LEAs. The "provisional" HEA Title II accountability data for the national percentage of teachers on waivers to full State certification is 1.5 percent for the 2006–2007 reporting year.

Because the Department is in the process of certifying all data received in the October 2007 State HEA Section 207 reports, the data in these reports, including the national average of teachers on waivers of State certification, are still provisional. However, to provide adequate time for the preparation and review of project applications and award of new grants, the Department will use the 1.5 percent national average for the purpose of this competition. Accordingly, an LEA will be considered to have met component (B)(2) of the definition if the data that it provided to the State for the purpose of the State's October 2007 HEA Section 207 report demonstrate that at least 1.5 percent of its teachers were on waivers of State certification requirements.

Consistent with the methodology the Department uses in the Transition to Teaching Program, in which participating LEAs were required to be "high-need LEAs" (as defined in Section 2102(3) of the ESEA), the Department will determine that an LEA with over 1.5 percent of its teachers having emergency, provisional, or temporary certification or licensing (i.e., teachers on waivers), as reflected in data the State uses to compile its October 2007 State report, has a "high percentage" of its teachers in this category. We expect that an LEA that chooses not to rely on the data provided to the State for purposes of October 2007 reporting required by Section 207 of the HEA will provide other evidence that demonstrates that it meets the eligibility requirement under component (B)(2) of the statutory definition of "high-need LEA." Moreover, should an LEA with a percentage of teachers on waivers of less than 1.5 percent believe it, too, has a "high percentage" of its teachers with emergency, provisional, or temporary certification or licensing, the Department will determine whether that

LEA meets element (B)(2) of the definition of high-need LEA on a case-by-case basis.

Under element (B)(2), an LEA may also demonstrate that it is "high-need" by demonstrating that it has a high teacher turnover rate. For this program, we adopt the standard used in the Teacher Quality Enhancement Grants Program, under which the Department considers "high teacher turnover" to be an attrition rate among classroom teachers of 15 percent or more over the last three school years. See 34 CFR 611.1 (definition of "high-need local educational agency"). This standard is consistent with Department data that indicates that 16 percent of teachers teaching during the 2003–04 school year did not return to teach in the same school the following school year.

See Marvel, J., Lyter, D.M., Peltola, P., Strizek, G.A., and Morton, B.A. (2006). *Teacher Attrition and Mobility: Results from the 2004–05 Teacher Follow-up Survey* (NCES 2007–307). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

#### IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet by downloading the package at <http://www.Grants.gov>.

You also may obtain a copy of the application package at the following address: Brenda Shade, Teachers for a Competitive Tomorrow Program-Master's Degrees, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006–8513. Telephone: (202) 502–7773. E-mail address: [Brenda.Shade@ed.gov](mailto:Brenda.Shade@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

*Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 50 pages; using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications, or the one-page abstract.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*  
*Applications Available:* June 6, 2008.  
*Deadline for Transmittal of Applications:* July 21, 2008.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

*Deadline for Intergovernmental Review:* September 17, 2008.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Language Education, CFDA Number 84.381B must be submitted electronically using the Government wide Grants.gov Apply site at <http://www.Grants.gov>. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Language Education, at <http://www.Grants.gov>. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.381, not 84.381B).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date.

Except as otherwise noted in this section, we will not accept your application if it is received—that is date and time stamped—by the Grants.gov system later than 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at <http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf>.

- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see [http://www.grants.gov/applicants/get\\_registered.jsp](http://www.grants.gov/applicants/get_registered.jsp)). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see <http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf>). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

- You will not receive additional point value because you submit your application in electronic format, nor

will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).

- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

- Your electronic application must comply with any page-limit requirements described in this notice.

- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

- We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1-800-518-4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing

instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

**Exception to Electronic Submission Requirement:** You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days) or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Brenda Shade, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006-8526. FAX: (202) 502-7699.

Your paper application must be submitted in accordance with the mail

or hand delivery instructions described in this notice.

**b. Submission of Paper Applications by Mail.**

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

**By mail through the U.S. Postal Service:**

U.S. Department of Education,  
Application Control Center,  
Attention: (CFDA Number 84.381B),  
400 Maryland Avenue, SW.,  
Washington, DC 20202-4260; or

**By mail through a commercial carrier:**

U.S. Department of Education,  
Application Control Center, Stop  
4260, Attention: (CFDA Number  
84.381B), 7100 Old Landover Road,  
Landover, MD 20785-1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

**c. Submission of Paper Applications by Hand Delivery.**

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.381B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

**V. Application Review Information**

**Selection Criteria:** The selection criteria for this program are from section 6114 of the America COMPETES Act, 20 U.S.C. 9813 and from 34 CFR 75.210 of EDGAR and are listed in the application package.

**VI. Award Administration Information**

**1. Award Notices:** If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

**2. Administrative and National Policy Requirements:** We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

**3. Reporting:** At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please review section 6113(e) of the America COMPETES Act, 20 U.S.C. 9813(e), and

go to: <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>.

4. **Performance Measures:** The objective of Teachers for a Competitive Tomorrow: Programs for Master's Degrees in Science, Technology, Engineering, Mathematics, or Critical Foreign Language Education is to train program participants as highly qualified teachers in these subject areas and to place them in high-need LEAs. Under the Government Performance and Results Act (GPRA), the following measures will be used by the Department in assessing the performance of the program.

(1) The percentage of program participants who earn a Master's degree and certification or licensure in a science, technology, engineering, mathematics, or critical foreign language area (includes previously licensed teachers who receive a Master's degree).

(2) The percentage of program participants who become or remain a teacher of record in a science, technology, engineering, mathematics, or critical foreign language area in a high-need school.

(3) The percentage of program participants who remain teaching in the science, technology, engineering, mathematics/critical foreign language area in a high-need school for two or more years.

(4) The cost per program participant who remains in teaching in the science, technology, engineering, mathematics/critical foreign language area in a high-need school for two or more years.

If funded, you will be asked to collect and report data on these measures in your project's annual performance report (EDGAR, 34 CFR 75.590).

Applicants are also advised to consider these measures in conceptualizing the design, implementation, and evaluation of their proposed projects because of their importance in the application review process. Collection of data on these measures should be a part of the evaluation plan, along with measures of progress on goals and objectives that are specific to your project.

## VII. Agency Contact

*For Further Information Contact:*  
Brenda Shade, Teachers for a Competitive Tomorrow Master's Degree Program, U.S. Department of Education, 1990 K Street, NW., room 7090, Washington, DC 20006-8526. Telephone: (202) 502-7773.

If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

## VIII. Other Information

*Alternative Format:* Individuals with disabilities can obtain this document

and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

*Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: May 30, 2008.

**Diane Auer Jones,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. E8-12512 Filed 6-3-08; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Agency Information Collection Extension

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995,<sup>1</sup> intends to extend for three years, an information collection request with the Office of Management and Budget (OMB) concerning security requirements for DOE contractors. The collections in this package are used by DOE to exercise management oversight and control over its contractors that provide goods and services for DOE organizations and activities in accordance with the terms of their contracts and the applicable statutory, regulatory, and mission support requirements of the Department. Information collected from private industry and/or private individuals is used to protect national security and other critical assets entrusted to the Department. Comments

are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**DATES:** Comments regarding this proposed information collection must be received on or before August 4, 2008. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

**ADDRESSES:** Written comments may be sent to: Kathy Murphy, HS-1.23 Germantown Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-1290 or by fax at 301-903-5492 or by e-mail at [Kathy.murphy@hq.doe.gov](mailto:Kathy.murphy@hq.doe.gov)

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to the person listed above in **ADDRESSES**.

**SUPPLEMENTARY INFORMATION:** This package contains: (1) OMB No. 1910-1800; (2) Package Title: Security; (3) Type of Review: renewal; (4) Purpose: for DOE management to exercise management oversight and control over its contractors; (5) Respondents: 68,458; (6) Estimated Number of Burden Hours: 265,256.

**Statutory Authority:** Department of Energy Organization Act, Public Law 95-91, of August 4, 1977.

Issued in Washington, DC, on April 28, 2008.

**Lesley A. Gasperow,**

*Director, Office of Resource Management, Office of Health, Safety and Security.*

[FR Doc. E8-12433 Filed 6-3-08; 8:45 am]

**BILLING CODE 6450-01-P**

<sup>1</sup> 44 U.S.C. 3501 *et seq.*

## DEPARTMENT OF ENERGY

### Electric Transmission Congestion Study

**AGENCY:** Office of Electricity Delivery and Energy Reliability, Department of Energy (DOE).

**ACTION:** Request for written comments and notice of technical workshops.

**SUMMARY:** Section 216(a)(1) of the Federal Power Act (FPA) requires the Department of Energy (Department or DOE) to complete a study of electric transmission congestion every three years. DOE issued the first "National Electric Transmission Congestion Study" (Congestion Study) in August 2006. The Department is now initiating preparations for the 2009 Congestion Study, and seeks comments on what publicly-available data and information should be considered, and what type of analysis should be performed, to identify and understand the significance and character of transmission congestion. Interested persons may submit comments in the manner indicated in the **ADDRESSES** portion of this notice. In addition, DOE will host six regional technical workshops to receive and discuss input concerning electric transmission-level congestion.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for workshop dates and locations. DOE recognizes that many commenters will wish to draw upon studies or analyses that are now in process. DOE suggests that commenters submit such materials as they become available, but no later than December 31, 2008.

**ADDRESSES:** You may submit written comments to <http://www.congestion09.anl.gov>, or by mail to the Office of Electricity Delivery and Energy Reliability, OE-20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. The following electronic file formats are acceptable: Microsoft Word (.doc), Corel Word Perfect (.wpd), Adobe Acrobat (.pdf), Rich Text Format (.rtf), plain text (.txt), Microsoft Excel (.xls), and Microsoft PowerPoint (.ppt). The Department is striving to utilize only publicly available data for this study. Accordingly, do not submit information that you believe is or should be protected from public disclosure. DOE is responsible for the final determination concerning disclosure or nondisclosure of information submitted to DOE and for treating it in accordance with the DOE's Freedom of Information regulations (10 CFR 1004.11). All comments received by DOE regarding

the 2009 Congestion Study will be posted on <http://www.congestion09.anl.gov> for public review.

**Note:** Delivery of the U.S. Postal Service mail to DOE continues to be delayed by several weeks due to security screening. DOE therefore encourages those wishing to comment to submit their comments electronically by e-mail. If comments are submitted by regular mail, the Department requests that they be accompanied by a CD or diskette containing electronic files of the submission.

**FOR FURTHER INFORMATION CONTACT:** David Meyer, DOE Office of Electricity Delivery and Energy Reliability, (202) 586-1411, [david.meyer@hq.doe.gov](mailto:david.meyer@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 1221 of the Energy Policy Act of 2005 (Pub. L. 109-58) (EPAAct) added several new provisions to the Federal Power Act (16 U.S.C. 824p) (FPA), including FPA section 216. FPA section 216(a) requires the Secretary of Energy to conduct a study of electric transmission congestion within one year from the date of enactment of EPAAct and every three years thereafter; such studies. The 2006 Congestion Study looked at congestion nationwide except for the portion of Texas covered by the Electricity Reliability Council of Texas, to which FPA section 216 does not apply. The 2009 Congestion Study will be of a similar scope. FPA section 216(a) requires the congestion study be conducted in consultation with affected States and any appropriate regional entity referred to in FPA section 215, i.e., the regional electric reliability organizations.<sup>1</sup>

In preparing the 2006 Congestion Study, the Department gathered historical congestion data obtained from existing studies prepared by regional reliability councils, regional transmission organizations (RTOs) and independent system operators (ISOs), and regional planning groups. In addition, the Department sponsored modeling to simulate future congestion for years 2008 and 2011 in the Eastern Interconnection and years 2008 and 2015 in the Western Interconnection. DOE issued the 2006 Congestion Study on August 8, 2006, and requested comments on the study.

Based on the historical data and the modeling results, the 2006 Congestion

<sup>1</sup> The regional reliability organizations under FPA section 215 are the Florida Reliability Coordinating Council, the Midwest Reliability Organization, the Northeast Power Coordinating Council, Reliability First Corporation, SERC Reliability Corporation, the Southwest Power Pool, the Texas Regional Entity (TRE), and the Western Electricity Coordinating Council.

Study identified several U.S. areas experiencing significant transmission congestion. Two "Critical Congestion Areas" (i.e., areas where the current and/or projected effects of congestion are especially broad and severe) were identified: the Atlantic coastal area from metropolitan New York through northern Virginia (the Mid-Atlantic Critical Congestion Area); and southern California (the Southern California Critical Congestion Area). Four "Congestion Areas of Concern" (i.e., areas where a large-scale congestion problem exists or may be emerging but more information and analysis appear to be needed to determine the magnitude of the problem) were identified: New England; the Phoenix-Tucson area; the San Francisco Bay area; and the Seattle-Portland area. Also, a number of "Conditional Congestion Areas" (i.e., areas where future congestion would result if large amounts of new generation were to be developed without simultaneous development of associated transmission capacity) were identified, including: Montana-Wyoming; Dakotas-Minnesota; Kansas-Oklahoma; Illinois, Indiana and upper Appalachia; and the Southeast. All comments received on the 2006 Congestion Study are available at <http://nietc.anl.gov>.

##### II. Comments

The Department is no longer accepting comments on the 2006 Congestion Study. All comments filed in response to today's notice should be addressed to the preparation of the 2009 Congestion Study, and sent to the Department in the manner indicated in the **ADDRESSES** portion of this notice. In written comments in response to this notice and at the technical workshops, DOE requests States, utilities, regional transmission organizations (RTOs), independent system operators (ISOs), and other stakeholders to describe changes in their respective areas since 2005 that affect the location, duration, frequency, magnitude, and significance of transmission congestion, including related constraints. Special attention should be given to the question of how to gauge the magnitude or significance of congestion using publicly available data. In addition, DOE is particularly interested in comments that speak to the most appropriate and effective methods for distinguishing between the effects of technical limits on line loadings and possible contractual limits on the use of those same lines.

##### III. Technical Workshops

Between June and September 2008, DOE will host six regional technical

workshops to receive and discuss input relevant to the 2009 Congestion Study, including comments on what publicly-available data should be considered to identify and understand the significance and character of transmission congestion. Each workshop will consist of panels of invited speakers who will present their views, followed by a discussion among the panelists led by DOE staff.

*Workshops dates and times:* The dates and times for the technical workshops are:

1. June 11, 2008, 9 a.m. to 12:30 p.m., San Francisco, CA.
2. June 18, 2008, 1 p.m. to 4:30 p.m., Oklahoma City, OK.
3. July 9, 2008, 9 a.m. to 12:30 p.m., Hartford, CT.
4. July 24, 2008, 9 a.m. to 12:30 p.m., Atlanta, GA.
5. August 6, 2008, 9 a.m. to 12:30 p.m., Las Vegas, NV.
6. September 17, 2008, 9 a.m. to 12:30 p.m., Chicago, IL.

*Workshop locations:* The locations of the technical workshops are:

1. San Francisco—Hyatt Regency San Francisco, 5 Embarcadero Center, San Francisco, CA 94111.
2. Oklahoma City—Skirvin Hilton Oklahoma City, One Park Avenue, Oklahoma City, OK 73102.
3. Hartford—Hartford Marriott Downtown, 200 Columbus Boulevard, Hartford, CT 06103.
4. Atlanta—Westin Peachtree Plaza, 210 Peachtree Street, Atlanta, GA 30303.
5. Las Vegas—Atomic Testing Museum, 755 E. Flamingo Road, Las Vegas, NV 89119.
6. Chicago—Wyndham Chicago, 633 North St. Clair, Chicago, IL 60611.

*Tentative Agenda:* An agenda for each technical workshop will be posted in advance of the scheduled date at <http://www.congestion09.anl.gov>.

*Public Participation:* The workshops will be open to the public, and will be simulcast over the Internet. Advance registration for Web cast is required by visiting <http://www.ian.ibeam.com/events/ener001/26552/>. A complete archive of each event will be on this Web site soon after the conclusion of the event, and will be downloadable in podcast format.

Any member of the public interested in offering oral comments at a technical workshop may do so on the day of the workshop, subject to the time available. Approximately one-half hour will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the workshop or has had insufficient time to

present material is invited to submit a written statement in the manner indicated in the **ADDRESSES** portion of this notice, above.

**Note:** The Department will consult with the States and regional reliability organizations in the preparation of the 2009 Congestion Study. DOE recognizes that in addition to (or as an alternative to) participating in the regional workshops, some States or reliability organizations may wish to discuss congestion matters with the Department on a bilateral basis. DOE will reserve time at the sites of the regional workshops for such bilateral discussions, and it invites interested States or reliability organizations to contact the Department to identify mutually convenient times. In addition, the Department will maintain an “open door” policy, and will schedule congestion meetings at DOE headquarters upon request with States, reliability organizations, Regional Transmission Organizations, Independent System Operators, utilities, and other stakeholders.

Issued in Washington, DC on May 30, 2008.

**Kevin M. Kolevar,**

*Assistant Secretary, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. E8-12434 Filed 6-3-08; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-996-000]

#### CBA Endeavors, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of CBA Endeavor, LLC’s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant’s request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and

assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission’s eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission’s Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12447 Filed 6-3-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings # 1

May 9, 2008.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC08-78-000.

*Applicants:* Duke Energy Ohio, Inc.; Cinergy Corp.; Cinergy Power Investments, Inc.; Generating Facility LLC.

*Description:* Amendment to Application and Request for Extended Notice Period for Comments of Cinergy Corp.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080506-5107.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG08-71-000.

*Applicants:* UniSource Energy Development Company.

*Description:* Self Certification Notice of Exempt Wholesale Generator Status of UniSource Energy Development Company.

*Filed Date:* 05/07/2008.

*Accession Number:* 20080507-5020.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 28, 2008.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER05-360-003.

*Applicants:* Old Dominion Electric Cooperative, Inc.

*Description:* Old Dominion Electric Cooperative submits an application in the Compliance Update proposing that certain limited changes be made to its filed Comprehensive Cost of Service Formula.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080508-0211.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-375-002.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company's Answer to Protest and Request for a Hearing of the Public Utilities Commission of the State of California.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080506-5126.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-603-002.

*Applicants:* Conectiv Delmarva Generation, LLC.

*Description:* Conectiv Delmarva Generation, LLC submits Second Amended Notice of Succession that reflects CDG, LLC's adoption of CDG, Inc.'s market-based rate schedule, etc.

*Filed Date:* 04/30/2008.

*Accession Number:* 20080501-0064.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 21, 2008.

*Docket Numbers:* ER08-685-001.

*Applicants:* TransCanada Maine Wind Development, Inc.

*Description:* TransCanada Maine Wind Development, Inc., submits an amendment to its Rate Schedule FERC 1.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080508-0196.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-766-001.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc., submits revised versions of the unexecuted Network Integration Transmission Service with Kansas Power Pool.

*Filed Date:* 04/30/2008.

*Accession Number:* 20080502-0117.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 21, 2008.

*Docket Numbers:* ER08-900-000.

*Applicants:* Potomac Edison Company.

*Description:* Potomac Edison Co. submits a rate schedule and supporting cost data with respect to the cost-based revenue requirement for providing Reactive Support and Voltage Control Generation Sources Services to PJM, etc.

*Filed Date:* 05/01/2008.

*Accession Number:* 20080505-0078.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 22, 2008.

*Docket Numbers:* ER08-901-001.

*Applicants:* Saracen Energy Partners, LP.

*Description:* Saracen Energy Partners, LP, submits a Supplement to the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority.

*Filed Date:* 05/05/2008.

*Accession Number:* 20080507-0213.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-909-000.

*Applicants:* Oncor Electric Delivery Company, LLC.

*Description:* Oncor Electric Delivery Company, LLC, submits Second Revised Sheet 34 of FERC Electric Tariff, Sixth Revised Volume 2, to become effective 10/9/07.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080506-0080.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08-910-000.

*Applicants:* Oncor Electric Delivery Company, LLC.

*Description:* Oncor Electric Delivery Company, LLC submits Second Revised Sheet 37-38 of its FERC Electric Tariff, Eleventh Revised Volume 1.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080506-0079.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08-911-000.

*Applicants:* Alliant Energy Corporate Services, Inc.

*Description:* Alliant Energy submits a Wholesale Power Agreement with Rock Energy Cooperative.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080506-0078.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08-912-000.

*Applicants:* Iberdrola Renewables, Inc.

*Description:* Iberdrola Renewables, Inc., submits a notice of succession.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080506-0077.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08-915-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, LLC, submits an executed interim interconnection service agreement with Hawks Nest Hydro, LLC, *et al.*

*Filed Date:* 05/05/2008.

*Accession Number:* 20080507-0214.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-916-000.

*Applicants:* Golden Spread Electric Cooperative, Inc.

*Description:* Golden Spread Electric Cooperative, Inc., submits an amendment to First Revised Rate Schedule 25.

*Filed Date:* 05/05/2008.

*Accession Number:* 20080507-0215.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-917-000.

*Applicants:* Green Light Energy, LLC. *Description:* Green Light Energy, LLC, submits a Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority.

*Filed Date:* 05/05/2008.

*Accession Number:* 20080507-0216.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-918-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, LLC submits a revision to the scheduling, procedures and operation of the PJM Interchange Energy Market at Section 2.3 of Attachment K.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080507-0217.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08-919-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, LLC submits a revision to the Reliability Pricing Model at Section 10(l) of Attachment DD.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080507-0218.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08-920-000.

*Applicants:* ISO New England Inc. and New England Power.

*Description:* ISO New England Inc. *et al.* submits revised tariff sheets and

supporting testimony re proposed revisions to Schedule 2—Reactive Supply and Voltage Control etc.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080507–0219.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08–921–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* Pacific Gas and Electric Co. submits revised Appendix E to the PG&E–SMUD Interconnection Agreement.

*Filed Date:* 05/02/2008.

*Accession Number:* 20080507–0220.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 23, 2008.

*Docket Numbers:* ER08–923–000.

*Applicants:* Xcel Energy Services Inc.

*Description:* Southwestern Public Service Company submits certain revised unexecuted service agreements for Network Integration Transmission Service under the Xcel Energy Operating Companies Joint Open Access Transmission Tariff etc.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080508–0215.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08–924–000.

*Applicants:* Alliant Energy Corporate Services, Inc.

*Description:* Wisconsin Power and Light Company submits a Wholesale Power Agreement between Central Wisconsin Electric Cooperative and WPL.

*Filed Date:* 05/05/2008.

*Accession Number:* 20080508–0209.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

Take notice that the Commission received the following open access transmission tariff filings:

*Docket Numbers:* OA07–84–001.

*Applicants:* NorthWestern Corporation.

*Description:* Order No. 890 OATT Filing of NorthWestern Corporation.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080506–5111.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission

in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E8–12430 Filed 6–3–08; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 28, 2008.

a. *Type of Application:* Non-project use of project lands and waters.

b. *Project Number:* P–459–205.

c. *Date Filed:* February 19, 2008, as supplemented May 12, 2008.

d. *Applicant:* Ameren/UE.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* The project is located at Fox Cove Estates near mile marker 31.2+5.2 of the Niangua Arm of the Lake of the Ozarks, in Camden County, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Jeff Green, Shoreline Supervisor, Ameren/UE, P.O. Box 993, Lake Ozark, MO 65049, (573) 365–9214.

i. *FERC Contact:* Any questions on this notice should be addressed to Christopher Yeakel at (202) 502–8132, or e-mail address:

[christopher.yeakel@ferc.gov](mailto:christopher.yeakel@ferc.gov).

j. *Deadline for filing comments and or motions:* June 30, 2008.

k. *Description of Request:* The application filed on February 19, 2008, as supplemented on May 12, 2008, requests approval to permit the construction of a new covered boat dock by Global Development, LLC at Fox Cove Estates near mile marker 31.2 + 5.2 of the Niangua Arm of the Lake of the Ozarks. The dock, as described in the May supplement, would be a total of 224 feet long, have 20 slips, and would consist of several walkways. No dredging, fuel dispensing, or sewage pumping facilities are proposed.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field (p–459) to access the document. You may also register online at <http://www.ferc.gov/docs-filing/subscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214.

In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

*o. Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers (p. 459–205). All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

*p. Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

*q. Comments, protests and interventions* may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8–12369 Filed 6–3–08; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings # 1

May 13, 2008.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC08–84–000.  
*Applicants:* Las Vegas Cogeneration LP; Valencia Power, LLC; Black Hills Generation, Inc.; Black Hills Colorado, LLC; Fountain Valley Power, LLC;

Harbor Cogeneration Company, LLC; Las Vegas Cogeneration II, LLC; Southwest Generation Operating Company.

*Description:* Application for Transaction Approval Under Federal Power Act section 203 of Black Hills Generation, Inc., *et al.*

*Filed Date:* 05/05/2008.

*Accession Number:* 20080505–5082.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 26, 2008.

*Docket Numbers:* EC08–86–000.

*Applicants:* Wabash Valley Power Association, Inc.; TPF Generation Holdings, LLC; Holland Energy, LLC.

*Description:* Application of Wabash Valley Power Association for approval of a transaction in which TPF Generation will sell 50% of the membership interests of Holland Energy to Wabash Valley and the other 50% to Hoosier Energy Rural Electric Coop, Inc. *etc.*

*Filed Date:* 05/09/2008.

*Accession Number:* 20080512–5024.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER95–1528–019.

*Applicants:* Wisconsin Public Service Corporation.

*Description:* Wisconsin Public Service Corporation submits a Notice of Change in Status.

*Filed Date:* 05/07/2008.

*Accession Number:* 20080509–0032.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 28, 2008.

*Docket Numbers:* ER97–4345–022; ER98–511–010.

*Applicants:* Oklahoma Gas and Electric Company, OGE Energy Resources, Inc.

*Description:* Oklahoma Gas and Electric Company and OGE Energy Resources, Inc. submit revisions to their market-based rate tariff designated as First Revised Sheet 1–5 to FERC Electric Tariff, Fifth Revised Volume 3.

*Filed Date:* 05/05/2008.

*Accession Number:* 20080508–0216.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER01–1527–010; ER01–1529–010.

*Applicants:* Sierra Pacific Power Company.

*Description:* Nevada Power Co. *et al.* submits a notice of non-material change in status.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080512–0283.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER04–157–028; ER04–714–018; EL05–89–007.

*Applicants:* Bangor Hydro-Electric Company; Florida Power & Light Company; Maine Public Utilities Commission vs. Central Maine Power Company.

*Description:* New England Transmission Owners submits an errata to the 4/23/08 compliance filing.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080513–0063.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER05–698–007.

*Applicants:* San Joaquin Cogen, LLC.

*Description:* San Joaquin Cogen, LLC submits a notice of non-material change in status in compliance with the reporting requirements of FERC's Order 652.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080513–0065.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER07–45–002.

*Applicants:* Horizon Power & Light LLC.

*Description:* Horizon Power and Light, LLC submits an Updated Market Power Analysis.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080512–0282.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER07–881–004.

*Applicants:* Alliant Energy Corporate Services, Inc.

*Description:* Alliant Energy Corporate Services, Inc. submits a supplemental compliance filing.

*Filed Date:* 05/07/2008.

*Accession Number:* 20080509–0058.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 28, 2008.

*Docket Numbers:* ER08–458–001.

*Applicants:* Florida Power Corporation.

*Description:* Florida Power Corporation submits its Cost Support for Refund (April 2008).

*Filed Date:* 05/06/2008.

*Accession Number:* 20080509–5024.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08–611–001; ER08–613–001.

*Applicants:* Niagara Mohawk Power Corporation.

*Description:* Niagara Mohawk Power Corp.'s response to FERC's 4/8/08 letter requesting additional information.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080509–0054.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER08–670–001.

*Applicants:* Illinois Power Company.

*Description:* Illinois Power Co. and Ameren Illinois Transmission Company

submit a supplement to their 3/14/08 filing.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080509-0055.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER08-679-001.

*Applicants:* Tallgrass Energy Partners.

*Description:* Tallgrass Energy Partners, LLC submits the Redlined Original Petition and Rate Schedule and Amended Original Petition and Rate Schedule FERC 1.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080508-0197.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-740-000.

*Applicants:* Appalachian Power Company.

*Description:* Appalachian Power Co. withdraws the Cost-Based Formula Rate Agreement for full requirements Electric Service.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080513-0103.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-770-001.

*Applicants:* Longview Power.

*Description:* Longview Power, LLC submits an amendment to its Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authorization, and Request for Expedited Treatment, filed 3/31/08.

*Filed Date:* 05/07/2008.

*Accession Number:* 20080509-0031.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 28, 2008.

*Docket Numbers:* ER08-798-001.

*Applicants:* American Electric Power Service Corporation.

*Description:* American Electric Power Service Corp., agent for Ohio Power Company *et al.*, submits their first revision to the Interconnection Agreement with American Transmission Systems Incorporated.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080513-0066.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-821-001; ER97-4587-008.

*Applicants:* Hazleton Generation LLC.

*Description:* Hazleton Generation, LLC submits an amendment to its 4/11/08 submittal of notification of change in status and of succession.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080512-0284.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER08-836-001.

*Applicants:* Champion Energy Marketing LLC.

*Description:* Champion Energy Marketing, LLC submits an Amendment to the Application to address items noted with regards to the 4/16/08 original application.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080513-0064.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 19, 2008.

*Docket Numbers:* ER08-837-001.

*Applicants:* PJM Interconnection, LLC.

*Description:* PJM Interconnection, LLC submits an amendment to its 4/16/08 filing.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080508-0199.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-838-001.

*Applicants:* Affordable Power, LP.

*Description:* Affordable Power LP submits Substitute Original Sheet 3 *et al.* to Rate Schedule FERC 1, to comply with Order 697-A and a shortened comment period.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080509-0056.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 19, 2008.

*Docket Numbers:* ER08-892-000.

*Applicants:* Allegheny Energy Supply Company, LLC.

*Description:* Motion to Withdraw Filing, without prejudice, the notices of cancellation and notices of termination of service agreements filed on 4/30/08.

*Filed Date:* 05/07/2008.

*Accession Number:* 20080507-5076.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 28, 2008.

*Docket Numbers:* ER08-922-000.

*Applicants:* Warren Power, LLC.

*Description:* Warren Power, LLC submits a notice of cancellation of FERC Electric Tariff, Original Volume 1 etc.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080507-0221.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-925-000.

*Applicants:* Midwest Independent Transmission System.

*Description:* Midwest Independent Transmission System Operator, Inc. submits proposed revisions to its Post-Treatment of Grandfathered Agreements.

*Filed Date:* 04/30/2008.

*Accession Number:* 20080505-0115.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 21, 2008.

*Docket Numbers:* ER08-926-000.

*Applicants:* Northwestern Wisconsin Electric Company.

*Description:* Northwestern Wisconsin Electric Company submits FERC Rate Schedule 2, to be effective 5/1/08.

*Filed Date:* 05/07/2008.

*Accession Number:* 20080509-0030.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 28, 2008.

*Docket Numbers:* ER08-927-000.

*Applicants:* Entergy Services, Inc.

*Description:* Entergy Operating Companies submits amendment to the Entergy System Agreement.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080509-0052.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER08-928-000.

*Applicants:* PJM Interconnection, LLC.

*Description:* PJM Interconnection, LLC submits revisions to its Open Access Transmission Tariff pursuant to section 205 of the Federal Power Act etc.

*Filed Date:* 05/08/2008.

*Accession Number:* 20080509-0053.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* ER08-929-000.

*Applicants:* Northeast Utilities Service Company.

*Description:* Northeast Utilities Service Co. *et al.* submits revised tariff sheets to Schedule 21-NU to include sub-account numbers that were inadvertently omitted from its 1/17/07 compliance filing etc.

*Filed Date:* 05/06/2008.

*Accession Number:* 20080509-0070.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 27, 2008.

*Docket Numbers:* ER08-930-000.

*Applicants:* Midwest Independent Transmission System.

*Description:* Midwest Independent Transmission System Operator, Inc. submits an executed Small Generator Interconnection Agreement among Flambeau Hydro, LLC etc.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080512-0281.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-931-000.

*Applicants:* Walnut Creek Energy, LLC.

*Description:* Petition of Walnut Creek Energy, LLC For Order Accepting Market-Based Tariff for Filing and Granting Waivers and Blanket Approvals.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080512-0280.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-932-000.

*Applicants:* SR Energy LLC.

*Description:* SR Energy, LLC submits a Notice of Cancellation of its Rate Schedule 1.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0279.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-933-000.  
*Applicants:* Lempster Wind, LLC.  
*Description:* Application of Lempster Wind, LLC for order accepting initial tariff, FERC Electric Tariff, Original Volume 1, waiving regulations & granting blanket approvals, including blanket approval under 18 CFR Part 34 etc.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0278.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-934-000.  
*Applicants:* Locust Ridge Wind Farm II, LLC.

*Description:* Application of Locust Ridge Wind Farm II, LLC for order accepting initial tariff ( FERC Electric Tariff, Original Volume 1), waiving regulations & granting blanket approvals, including blanket approval under 18 CFR Part 34 etc.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0277.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-935-000.  
*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy Inc submits FERC Electric Rate Schedule 307, a Supplemental Generation Agreement with the City of Burlingame dated as of 4/7/08.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0276.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-936-000.  
*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy, Inc submits FERC Electric Rate Schedule 308, a Supplemental Generation Agreement with City of Herington.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0275.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-937-000.  
*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy, Inc submits FERC Electric Rate Schedule 309, a Supplemental Generation Agreement with Osage City.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0273.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-938-000.  
*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy Inc submits FERC Electric Rate Schedule 310, a Supplemental Generation

Agreement with City of Wamego dated as of 4/15/08.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080512-0274.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-939-000.  
*Applicants:* Golden Spread Electric Cooperative, Inc.  
*Description:* Golden Spread Electric Cooperative, Inc submits First Revised Sheets 113-199, 300-399, and 404 to Golden Spread's First Revised Rate Schedule 23 through 33.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080513-0070.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-940-000.  
*Applicants:* Chehalis Power Generating, LLC.

*Description:* Chehalis Power Generating, LLC submits a Notice of Cancellation of its market-based rate tariff, FERC Electric Rate Schedule 1.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080513-0067.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-941-000.  
*Applicants:* Niagara Mohawk Power Corp.

*Description:* National Grid submits an Amendment and Restated Interconnection Agreement with Power City Partners, LP.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080513-0068.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

*Docket Numbers:* ER08-942-000.  
*Applicants:* American Electric Power Service Corporation.

*Description:* Ohio Power Co. *et al.* submits a thirteenth Revised Interconnection and Local Delivery Service Agreement.

*Filed Date:* 05/09/2008.  
*Accession Number:* 20080513-0069.  
*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

Take notice that the Commission received the following open access transmission tariff filings:

*Docket Numbers:* OA07-109-001.  
*Applicants:* Arizona Public Service Company.

*Description:* Arizona Public Service Co submits Second Revised Sheet 122 *et al.* to FERC Electric Tariff, Fourteenth Revised Volume 2, in compliance with FERC's 4/8/08 Order.

*Filed Date:* 05/08/2008.  
*Accession Number:* 20080509-0115.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, May 29, 2008.

*Docket Numbers:* OA07-52-002.

*Applicants:* Puget Sound Energy, Inc.

*Description:* Puget Sound Energy, Inc's Revisions to the Open Access Transmission Tariff to Comply with Order 890 OATT filing.

*Filed Date:* 05/12/2008.

*Accession Number:* 20080513-5076.

*Comment Date:* 5 p.m. Eastern Time on Monday, June 2, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call

(866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E8-12429 Filed 6-3-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-408-000]

#### CenterPoint Energy Gas Transmission Company; Notice of Application

May 28, 2008.

Take notice that on May 22, 2008, CenterPoint Energy Gas Transmission Company (CEGT), 1111 Louisiana Street, Houston, Texas 77002-5231, filed with the Commission an application under section 7(b) of the Natural Gas Act (NGA) for authorization to abandon, in place and by sale, to CenterPoint Energy Field Services, Inc. (CEFS) a 4.6 mile segment of Line 2-C-2 located in the State of Oklahoma. In conjunction with the abandonment, CEGT seeks determination that the facilities, once conveyed to CEFS, will be a gathering facility exempt from the Commission's jurisdiction under NGA section 1(b). This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Any questions regarding the petition should be directed to Lawrence O. Thomas, Director—Rates & Regulatory, CenterPoint Energy Gas Transmission Company, P.O. Box 21734, Shreveport, LA 71151, and Tel: (318) 429-2804 or Fax (318) 429-3133, or e-mail [larry.thomas@centerpointenergy.com](mailto:larry.thomas@centerpointenergy.com), or contact Mark C. Schroeder, Vice-President & General Counsel, CenterPoint Energy Gas Transmission Company, P.O. Box 1700, Houston, TX 77210, and Tel: (713) 207-3395 or Fax: (713) 207-0711 or [mark.schroeder@centerpointenergy.com](mailto:mark.schroeder@centerpointenergy.com).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal

Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* June 18, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-12367 Filed 6-2-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP08-407-000]

#### New Home Storage, LLC; Notice of Application

May 28, 2008.

Take notice that on May 22, 2008, New Home Storage, LLC (NHS), 102 East St. Marry Blvd., Lafayette, Louisiana 70503, filed in Docket No. CP08-407-000, a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, and section 7(c)(1)(B) of the Natural Gas Act, seeking approval of an exemption from certificate requirements to perform temporary activities designed to determine the feasibility of developing an underground natural gas storage facility in Smith County, Mississippi, as more fully set forth in the petition which is open to the public for inspection. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502-8659 or TTY, (202) 208-3676.

Any questions regarding this application should be directed to J. Gordon Pennington, Attorney at Law, 2707 Kensington St., Arlington, Virginia 22207, or via telephone at (703) 533-7638, facsimile number (703) 241-1842, or e-mail [Pennington5@verizon.net](mailto:Pennington5@verizon.net).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9,

within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this

project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* June 11, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-12366 Filed 6-3-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-153-000]

#### Transcontinental Gas Pipe Line Corporation; Notice of Application

May 28, 2008.

Take notice that on April 15, 2008, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP08-153-000 an application pursuant to section 7(b) of the Natural

Gas Act (NGA) for permission and approval to abandon in place an approximately 17.2-mile long, 20-inch diameter supply lateral in South Marsh Island Block 23 and Eugene Island Block 129, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Transco proposes to abandon in place an approximately 17.2-mile long, 20-inch diameter supply lateral that extends between South Marsh Island Block 23 and Eugene Island Block 129, offshore Louisiana. Transco states that the line ruptured on March 11, 2006, in the Eugene Island Block 135 area. Transco determined that the line was originally damaged in 2005 during Hurricane Rita by a drilling rig set adrift while dragging its anchors. Transco also states that it isolated the line, blew it down, and took it out of service. Upon approval of Transco's request to abandon the lateral, Transco would clean the line, then plug it and bury the ends. Transco also states that its proposed abandonment would not involve the physical removal of any facilities. Transco estimates its abandonment cost at \$5,360,000.

Any questions regarding this application should be directed to Ingrid Germany, Certificates & Tariffs, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251 or telephone 713-215-4015.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to

the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

*Comment Date:* June 6, 2008.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12370 Filed 6-3-08; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings # 1

May 23, 2008.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC08-87-000.

*Applicants:* Entegra Power Group LLC, Gila River Power, L.P., Union Power Partners, L.P., Harbinger Capital Partners Master Fund I, Harbinger Capital Partners Special Situations.

*Description:* Entegra Power Group LLC *et al.* submits a joint application for approval under Section 203 of the Federal Power Act.

*Filed Date:* 05/09/2008.

*Accession Number:* 20080516-0116.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 30, 2008.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER91-195-053; EL07-69-003.

*Applicants:* Western Systems Power Pool, Empire District Electric Company.

*Description:* The Empire District Electric Co submits its compliance filing to support the continued use of the up to demand charge in the Western Systems Power Pool Agreement.

*Filed Date:* 04/18/2008.

*Accession Number:* 20080421-0057.

*Comment Date:* 5 p.m. Eastern Time on Friday, June 13, 2008.

*Docket Numbers:* ER05-1410-007; EL05-148-007.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, LLC submits filing to comply with the FERC (Commission) March 21, 2008 Order on Compliance Filing ( March 21 Order).

*Filed Date:* 05/20/2008.

*Accession Number:* 20080522-0174.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, June 10, 2008.

*Docket Numbers:* ER08-917-001.

*Applicants:* Green Light Energy, LLC.  
*Description:* Green Light Energy, LLC submits the Amendment for Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, FERC Electric Tariff, Original Volume 1, effective 6/9/08.

*Filed Date:* 05/20/2008.

*Accession Number:* 20080522-0175.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, June 10, 2008.

*Docket Numbers:* ER08-990-000.

*Applicants:* South Carolina Electric & Gas Transmissi.

*Description:* South Carolina Electric & Gas Company Transmission Function submits a revised cover sheet for the Network Integration Transmission Service Agreement and the Network Operating Agreement etc.

*Filed Date:* 05/20/2008.

*Accession Number:* 20080522-0173.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, June 10, 2008.

*Docket Numbers:* ER08-991-000.

*Applicants:* Westar Energy, Inc.

*Description:* Westar Energy, Inc *et al.* submits Second Revised Sheet 12 and 1 to the Wholesale Electric Service Agreement commencing 2/1/88 designated First Revised Rate Schedule FERC 174 etc.

*Filed Date:* 05/19/2008.

*Accession Number:* 20080522-0172.

*Comment Date:* 5 p.m. Eastern Time on Monday, June 09, 2008.

*Docket Numbers:* ER08-992-000.

*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy Inc submits Petition for Approval of Settlement Agreement.

*Filed Date:* 05/19/2008.

*Accession Number:* 20080522-0171.

*Comment Date:* 5 p.m. Eastern Time on Monday, June 09, 2008.

*Docket Numbers:* ER08-993-000.

*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy, Inc *et al.* submits Substitute Second Revised Sheet 8 and 1 to the Wholesale Electric Service Agreement designated as First Revised Rate Schedule FERC 173 with the City of Mulberry, Kansas.

*Filed Date:* 05/20/2008.

*Accession Number:* 20080522-0170.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, June 10, 2008.

*Docket Numbers:* ER08-994-000.

*Applicants:* Westar Energy, Inc.  
*Description:* Westar Energy, Inc submits Petition for Approval of Settlement Agreement with the City of Mulberry, Kansas.

*Filed Date:* 05/20/2008.

*Accession Number:* 20080522-0169.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, June 10, 2008.

Take notice that the Commission received the following open access transmission tariff filings:

*Docket Numbers:* OA07-90-003.

*Applicants:* MidAmerican Energy Company.

*Description:* MidAmerican Energy Company submits revised and original tariff sheets to conform its OATT Attachment C, Methodology to Assess Available Transfer Capability, to the Order No. 890 requirements.

*Filed Date:* 04/21/2008.

*Accession Number:* 20080422-5082.

*Comment Date:* 5 p.m. Eastern Time on Thursday, June 12, 2008.

*Docket Numbers:* OA08-65-000.

*Applicants:* Portland General Electric Company.

*Description:* Order No. 890-A OATT Filing of Portland General Electric Company.

*Filed Date:* 03/14/2008.

*Accession Number:* 20080317-5028.

*Comment Date:* 5 p.m. Eastern Time on Monday, June 02, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. E8-12431 Filed 6-3-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ID-3281-004]

#### Abel, James E.; Notice of Filing

May 29, 2008.

Take notice that on May 28, 2008, James E. Abel filed an application for authorization to hold interlocking positions pursuant to section 305(b) of the Federal Power Act and Part 45 of the regulations of the Federal Energy Regulatory Commission, 18 CFR Part 45 (2007).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on June 19, 2008.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-12448 Filed 6-3-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM07-16-000]

#### Filing Via the Internet; Notice of Discontinuation of Text Version of Commission Issuances

May 28, 2008.

Pursuant to Commission Order No. 703, issued November 15, 2007,<sup>1</sup> and effective December 24, 2007, the Commission will discontinue creating Text files (.TXT file extension) for new Commission issuances.<sup>2</sup> The Commission proposed in this proceeding to eliminate the Text versions of issuances and received no comments.

The Commission will continue to make issuances available in the native format—primarily Microsoft Word for issuances—and will continue to create a PDF (Portable Document Format) version.<sup>3</sup>

The Commission began creating Text versions of its issuances nearly 20 years ago when the public accessed documents through either paper copies or an electronic bulletin board using a dial-up connection. Text files made agency issuances accessible to the public in an open format without the need to purchase proprietary software. With today's Internet access and the availability of viewers for various file formats, the utility of the Text version is greatly diminished. In addition, other agencies generally do not create Text versions of issuances.

This implementation action is effective immediately.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-12365 Filed 6-3-08; 8:45 am]

**BILLING CODE 6717-01-P**

<sup>1</sup> *Filing Via the Internet*, Order No. 703, 72 FR 65,659 (November 23, 2007), FERC Stats. & Regs. ¶ 61,171 ¶ 31,259 (2007) (Order No. 703).

<sup>2</sup> The Text versions of previous Commission issuances will remain available through the eLibrary system.

<sup>3</sup> The PDF version is created from the native file on a 'best efforts' basis for Commission issuances and submittals to the agency.

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ID-5727-000]

**Nelson, W.T. III; Notice of Filing**

May 28, 2008.

Take notice that on May 27, 2008, W.T. Nelson, III, filed an application for authority of hold Interlocking Positions, pursuant to section 305(b) of the Federal Power Act and Part 45 of the Federal Energy Regulatory Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on June 9, 2008.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12368 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket Nos. ER08-852-000; ER08-852-001]

**Glacial Energy Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of Glacial Energy Holdings, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a

document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12442 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER08-931-000]

**Walnut Creek Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of Walnut Creek Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission,

888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-12445 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-403-000]

#### Wyoming Interstate Company, Ltd.; Notice of Application

May 29, 2008.

Take notice that on May 20, 2008, Wyoming Interstate Company, Ltd. (WIC), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), and section 157.5, *et seq.* of the Commission's regulations for an order granting a certificate of public convenience to construct and operate new compression facilities, with appurtenances, to be located in Moffat and Rio Blanco Counties, Colorado. Referred to as the Piceance Compression Expansion Project, it will allow WIC to transport additional volumes of natural gas from the Piceance Basin production area in northwestern Colorado to interconnects with various other interstate pipelines at the Opal Hub, located in Sweetwater County, Wyoming. As part of this project, WIC is also seeking a pre-determination of roll-in for the costs associated with the project and the authorization for an incremental fuel charge for the related fuel costs from the proposed facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the

last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or TTY, contact (202) 502-8659.

Any questions concerning this application may be directed to Richard Derryberry, Director, Regulatory Affairs, Wyoming Interstate Company, Ltd., P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520-3782 or by fax at (719) 667-7534 or Craig V. Richardson, Vice President and General Counsel, Wyoming Interstate Company, Ltd., P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520-4370 or by fax at (719) 520-4898.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the

proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* June 19, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-12450 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ID-3894-002]

#### Duane, Elizabeth Stevens; Notice of Filing

May 29, 2008.

Take notice that on May 28, 2008, Elizabeth Stevens Duane filed an application for authorization to hold interlocking positions pursuant to section 305(b) of the Federal Power Act and Part 45 of the regulations of the Federal Energy Regulatory Commission, 18 CFR Part 45 (2007).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on June 19, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-12449 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ID-3898-002]

#### Murphy, Dennis J.; Notice of Filing

May 29, 2008.

Take notice that on May 28, 2008, Dennis J. Murphy filed an application for authorization to hold interlocking positions pursuant to section 305(b) of the Federal Power Act and Part 45 of the regulations of the Federal Energy Regulatory Commission, 18 CFR Part 45 (2007).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on June 19, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-12440 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-933-000]

#### Lempster Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of Lempster Wind, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by

clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12446 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-864-000]

#### Montgomery L'Energia Power Partners LP; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of Montgomery L'Energia Power Partners LP's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an

eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12443 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-848-000]

#### GearyEnergy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of GearyEnergy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and

assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-12441 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-917-000]

#### Green Light Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2008.

This is a supplemental notice in the above-referenced proceeding of Green Light Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888

First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 18, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-12444 Filed 6-3-08; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8575-5; Docket ID No. EPA-HQ-ORD-2008-0315]

### Draft Toxicological Review of Beryllium and Compounds: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of listening session.

**SUMMARY:** EPA is announcing a listening session to be held on June 27, 2008, during the public comment period for the external review draft document entitled, "Toxicological Review of Beryllium and Compounds: In Support of Summary Information on the Integrated Risk Information System (IRIS)". This listening session is a new step in EPA's revised process, announced on April 10, 2008, for development of human health assessments for inclusion on IRIS. The purpose of the listening session is to allow all interested parties to present scientific and technical comments on draft IRIS health assessments to EPA and other interested parties during the public comment period and prior to the external peer review meeting. EPA welcomes the scientific and technical comments that will be provided to the Agency by the listening session participants. The comments will be considered by the Agency as it revises the draft assessment in response to the independent external peer review and public comments. All presentations will become part of the official and public record.

The EPA's draft assessment and peer review charge are available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at <http://www.epa.gov/ncea>.

**DATES:** The listening session on the draft IRIS health assessment for beryllium and compounds will be held on June 27, 2008, beginning at 10 a.m. and ending at 5 p.m., Eastern Daylight Time. If you wish to make a presentation at the listening session, you should register by June 20, 2008, and indicate that you wish to make oral comments at the session, and indicate the length of your presentation. At the time of your registration, please indicate if you require audio-visual aid (e.g., lap top and slide projector). In general, each presentation should be no more than 30 minutes. If, however, there are more requests for presentations than the allotted time will allow, then the time limit for each presentation will be adjusted accordingly. Participants may also register at the beginning of the listening session to make comments. The order of the presentations will follow the order of registration. A copy of the agenda for the listening session will be available at the meeting.

The public comment period for review of this draft assessment was announced previously in the **Federal Register** (FR) (73 FR 26986-26987) on

May 12, 2008. As stated in that FR notice, the public comment period began on May 12, 2008, and ends July 5, 2008. Any technical comments submitted during the public comment period should be in writing and must be received by EPA by July 5, 2008, according to the procedures outlined below. Only those public comments submitted using the procedures identified in the May 12 FR notice by the July 5, 2008, deadline can be assured of having their comments provided to the independent peer-review panel prior to the peer-review meeting to be held on July 16, 2008. The logistics for the peer-review meeting were announced in the May 12, 2008, FR notice.

Listening session participants who wish to have their comments available to the external peer reviewers should also submit written comments during the public comment period using the detailed and established procedures included in the aforementioned FR notice (May 12, 2008). Comments submitted to the docket prior to the end of the public comment period will be submitted to the external peer reviewers and considered by EPA in the disposition of public comments. Comments received in the docket after the public comment period closes must still be submitted to the docket but will not be submitted to the external peer reviewers.

**ADDRESSES:** The listening session on the draft beryllium assessment will be held at the EPA offices at Two Potomac Yard (North Building), 7th Floor, Room 7100, 2733 South Crystal Drive, Arlington, Virginia, 22202. To attend the listening session, register by June 20, 2008, via e-mail at [ross.christine@epa.gov](mailto:ross.christine@epa.gov) (subject line: beryllium listening session), by phone: 703-347-3389, or by faxing a registration request to 703-347-8689 (please reference the "Beryllium Listening Session" and include your name, title, affiliation, full address and contact information). Please note that to gain entrance to this EPA building to attend the meeting, attendees must have photo identification with them and must register at the guard's desk in the lobby. The guard will retain your photo identification and will provide you with a visitor's badge. At the guard's desk, attendees should give the name Christine Ross and the telephone number, 703-347-3389, to the guard on duty. The guard will contact Ms. Ross who will meet you in the reception area to escort you to the meeting room. Upon your exit from the building please return your visitor's badge and you will

receive the photo identification that you provided.

A teleconference line will also be available for participants. The teleconference number is 866-299-3188 and the access code is 1068186199, followed by the pound sign (#). The teleconference line will be activated at 9:45 a.m., and you will be asked to identify yourself and your affiliation at the beginning of the call.

*Information on Services for Individuals with Disabilities:* For information on access or services for individuals with disabilities, please contact Christine Ross at 703-347-3389 or [ross.christine@epa.gov](mailto:ross.christine@epa.gov). To request accommodation of a disability, please contact Christine Ross, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

**FOR FURTHER INFORMATION CONTACT:** For information on the public listening sessions, please contact Christine Ross, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703-347-3389; facsimile: 703-347-8689; or e-mail: [ross.christine@epa.gov](mailto:ross.christine@epa.gov). If you have questions about the draft beryllium assessment, contact Amanda Persad, IRIS Staff, National Center for Environmental Assessment, (B243-01), U.S. EPA, Research Triangle Park, NC 27711; telephone: 919-541-9781; facsimile: 919-541-2985; or e-mail: [persad.amanda@epa.gov](mailto:persad.amanda@epa.gov).

**SUPPLEMENTARY INFORMATION:** This listening session is a new step in EPA's revised process, announced on April 10, 2008, for development of human health assessments for inclusion on IRIS. The new process is posted on the NCEA home page under the Recent Additions menu at <http://www.epa.gov/ncea>. Two listening sessions are scheduled under the new IRIS process. The first is during the public review of the draft assessment that includes only qualitative discussion. The second session is during the public review of the externally peer-reviewed draft assessment; if feasible, this draft will include both qualitative and quantitation elements (i.e., a "complete draft"). All IRIS assessments that are at the document development stage will follow the revised process, which includes the two listening sessions. However, when EPA initiated the new IRIS process, the draft assessment for beryllium had already completed document development and been through several rounds of internal review. Therefore, EPA will only hold one listening session during the public

review and comment period of the externally peer-reviewed draft.

Dated: May 29, 2008.

**Rebecca Clark,**

*Deputy Director, National Center for Environmental Assessment.*

[FR Doc. E8-12478 Filed 6-3-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0046; FRL-8365-3]

### Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before July 7, 2008.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0046 and the pesticide petition number (PP) of interest, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

*Instructions:* Direct your comments to EPA-HQ-OPP-2008-0046 the assigned docket ID number and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential

Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the docket index available in [regulations.gov](http://www.regulations.gov). To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** The person listed at the end of the pesticide petition summary of interest.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

## II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 8E7325	EPA-HQ-OPP-2008-0362
PP 8E7341	EPA-HQ-OPP-2008-0361
PP 7F7279	EPA-HQ-OPP-2008-0327
PP 8F7335	EPA-HQ-OPP-2008-0322
PP 8F7343	EPA-HQ-OPP-2008-0360
PP 8E7325	EPA-HQ-OPP-2008-0362
PP 8E7332	EPA-HQ-OPP-2008-0346
PP 8E7333	EPA-HQ-OPP-2008-0059
PP 7F7311	EPA-HQ-OPP-2008-0093

## III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at <http://www.regulations.gov>.

### A. New Tolerance

1. *PP 8E7325.* (EPA-HQ-OPP-2008-0362). The Interregional Research Project No. 4 (IR-4), 500 College Rd. East, Suite 201 W, Princeton, NJ 08540, proposes to establish a tolerance for residues of the fungicide quinoxyfen, 5,7-dichloro-4-(4-fluorophenoxy)quinoline in or on food commodities artichoke, globe at 1.4 parts per million (ppm); fruit, stone, group 12 at 0.70 ppm; squash, winter at 0.20 ppm; pumpkin at 0.20 ppm; and gourd, edible at 0.20 ppm. A practical analytical method is available to monitor and enforce the tolerances of quinoxyfen residues in crops. The analytical method uses a capillary gas chromatography and mass selective detection (GC-MSD) with limits of quantitation (LOQ) of <0.01. The method is adequate for collecting data and enforcing tolerances for quinoxyfen residues in/on the subject crops. Contact: Sidney Jackson, (703) 305-7610, [jackson.sidney@epa.gov](mailto:jackson.sidney@epa.gov).

2. *PP 8E7341.* (EPA-HQ-OPP-2008-0361). IR-4, 500 College Rd. East, Suite 201W, Princeton, NJ 08540, proposes to establish a tolerance for the combined residues of the herbicide cyhalofop (cyhalofop-butyl, R-(+)-n-butyl-2-(4(4-cyano-2-fluorophenoxy)-phenoxy)propionate, plus cyhalofop acid, R-(+)-2-(4(4-cyano-2-fluorophenoxy)-phenoxy)propionic acid) and the di-acid metabolite, (2R)-4-[4-(1-carboxyethoxy)phenoxy]-3-fluorobenzoic acid in or on food commodity rice, wild, grain at 0.03 ppm. An adequate analytical method is available for enforcement purposes; the method has been developed and validated to determine the residues of cyhalofop-butyl, cyhalofop (acid form) and the diacid metabolite in rice grain, straw and processed products. The method was based on capillary gas chromatography with mass selective detection. Contact: Sidney Jackson, (703) 305-7610, [jackson.sidney@epa.gov](mailto:jackson.sidney@epa.gov).

3. *PP 7F7279.* (EPA-HQ-OPP-2008-0327). Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the fungicide prothioconazole in or on food commodity wheat, forage at 8.0 ppm. The analytical method for determining residues of concern in plants extracts residues of prothioconazole and JAU6476-desthio and converts the prothioconazole to JAU6476-desthio and JAU6476-sulfonic acid. Following addition of internal standards the sample extracts are analyzed by liquid chromatography/mass spectrometry

(LC/MS/MS). Radiovalidation and independent laboratory validation have shown that the method adequately quantifies prothioconazole residues in treated commodities. The analytical method for analysis of large animal tissues includes extraction of the residues of concern, followed by addition of an internal standard to the extract. The extract is then hydrolyzed to release conjugates, partitioned and analyzed by LC/MS/MS as prothioconazole, JAU6476-desthio and JAU6476-4-hydroxy. The method for analysis of milk eliminated the initial extraction step in the tissue method. Contact: Bryant Crowe, (703) 305-0025, [crowe.bryant@epa.gov](mailto:crowe.bryant@epa.gov).

4. *PP 8F7335*. (EPA-HQ-OPP-2008-0322). Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the insecticide tebufospyr; [O-[2-(1,1-dimethylethyl)-5-pyrimidinyl] O-ethyl O-(1-methylethyl) phosphorothioate in or on food commodities corn, field, forage at 0.01 ppm; corn, field, stover at 0.01 ppm; corn, pop, forage at 0.01 ppm; corn, pop, stover at 0.01 ppm; corn, sweet, forage at 0.01 ppm; corn, sweet, stover at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, pop, grain at 0.01 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm. Adequate validated analytical methodology is available for enforcement purposes. Contact: Marilyn Mautz, (703) 305-6785, [mautz.marilyn@epa.gov](mailto:mautz.marilyn@epa.gov).

5. *PP 8F7343*. (EPA-HQ-OPP-2008-0360). Nichino America, Inc. (NAI), 4550 New Linden Hill Rd., Suite 501, Wilmington, DE 19808, proposes to establish a tolerance for residues of the insecticide buprofezin in or on food commodity Brassica, head and stem, subgroup 5A at 7.0 ppm. The proposed analytical method involves extraction, partition, clean-up and detection of residues by gas chromatography using nitrogen phosphorous detection. Contact: Melody Banks, (703) 305-5413, [banks.melody@epa.gov](mailto:banks.melody@epa.gov).

#### B. Amendment to Existing Tolerance

*PP 8E7325*. (EPA-HQ-OPP-2008-0362). IR-4, 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes, upon approval of the aforementioned tolerance for fruit, stone, group 12 in Unit III.A.1., to amend remove the established tolerances for the residues of the fungicide quinoxyfen, 5,7-dichloro-4-(4-fluorophenoxy)quinoline in 40 CFR 180.588 (a) in or on the food commodities cherry, sweet at 0.3 parts per million (ppm) and cherry, tart at 0.3 ppm. Contact: Sidney Jackson, (703) 305-7610, [jackson.sidney@epa.gov](mailto:jackson.sidney@epa.gov).

#### C. New Exemption From Tolerance

1. *PP 8E7332*. (EPA-HQ-OPP-2008-0346). Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance under 40 CFR 180.920 for residues of the triethanolamine (TEA)(CAS Reg. No. 102-71-6) when used as a pesticide inert ingredient stabilizer at no more than 2% in pesticide formulations that are used for post-emergence treatment on small grain cereal crops before the edible parts of the plant consumed by humans are exposed. Because this petition is a request for an exemption from the requirement of a tolerance, no analytical method is required. Contact: Karen Samek, (703) 347-8825, [samek.karen@epa.gov](mailto:samek.karen@epa.gov).

2. *PP 8E7333*. (EPA-HQ-OPP-2008-0059). Whitmire Micro-Gen c/o Landis International, Inc., P.O. Box 5126, Valdosta, GA 31603-5126, proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance under 40 CFR 180.930 for residues of the potassium benzoate (CAS Reg. No. 582-25-2) when used as a pesticide inert ingredient in a pesticide product when used in accordance with good agricultural practice as a preservative in pesticide formulations applied to animals. Because this petition is a request for an exemption from the requirement of a tolerance, no analytical method is required. Contact: Karen Samek, (703) 347-8825, [samek.karen@epa.gov](mailto:samek.karen@epa.gov).

3. *PP 7F7311*. (EPA-HQ-OPP-2008-0093). SynTech Global LLC on behalf of BioNext sprl, Passage des deportes, 2, B-5030 Gembloux, Belgium, proposes to establish amend 40 part CFR 180 by establishing an exemption from the requirement of a tolerance for residues of the calcium lactate pentahydrate (CAS Reg. No. 5743-47-5) on stored apples and pears when used as a pesticide inert ingredient in pesticide formulations of the active ingredient *Candida oleophila* strain O, as a post-harvest treatment to control *Botrytis cinerea* (grey mold) and *Penicillium expansum* (blue mold). Because this petition is a request for an exemption from the requirement of a tolerance, no analytical method is required. Contact: Karen Samek, (703) 347-8825, [samek.karen@epa.gov](mailto:samek.karen@epa.gov).

#### List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: May 19, 2008.

**Lois Rossi,**

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E8-12249 Filed 6-3-08; 8:45 am]

BILLING CODE 6560-50-S

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8575-7]

### Science Advisory Board Staff Office; Notification of Upcoming Meetings of the Science Advisory Board; Ecological Processes and Effects Committee Augmented for the Advisory on EPA's Aquatic Life Water Quality Criteria

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference and a public meeting of the SAB Ecological Processes and Effects Committee Augmented for the Advisory on EPA's Aquatic Life Water Quality Criteria. The teleconference and meeting are being held to provide advice on a methodology for deriving water quality criteria for the protection of aquatic life based on chemical mode of action.

**DATES:** The public teleconference will be held on Monday, June 23, 2008, from 1 p.m. to 4 p.m. (Eastern Daylight Time). The public meeting will be held on Monday, June 30, 2008, from 8:30 a.m. to 5:30 p.m. through Tuesday, July 1, 2008, from 8 a.m. to approximately 12:30 p.m. (Eastern Daylight Time). The teleconference and meeting agendas will be posted on the SAB Web site at <http://www.epa.gov/sab>.

**ADDRESSES:** The public meeting of the Committee will be held in the SAB Conference Center, located at 1025 F Street, NW., Room 3705, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Members of the public who wish to obtain the teleconference call-in number and access code; or receive further information concerning the teleconference or meeting must contact Dr. Thomas Armitage, Designated Federal Officer (DFO). Dr. Armitage may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,

Washington, DC 20460; or via telephone/voice mail: (202) 343-9995; fax (202) 233-0643; or e-mail at [armitage.thomas@epa.gov](mailto:armitage.thomas@epa.gov). General information about the EPA SAB, as well as any updates concerning the teleconference and meeting announced in this notice, may be found in the SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the SAB Ecological Processes and Effects Committee will hold a public meeting to provide advice on a methodology for deriving water quality criteria for the protection of aquatic life based on chemical mode of action. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

**Background:** The Clean Water Act authorizes the EPA Administrator to develop and publish criteria for water quality that are protective of aquatic life. Traditionally, ambient water quality criteria for the protection of aquatic life have been derived using EPA's 1985 *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Life and Their Uses* (Guidelines). To ensure the protection of aquatic life and meet a goal of protecting and restoring ecological integrity, the Guidelines established comprehensive toxicity test data requirements for a variety of aquatic organisms and procedures for deriving a scientifically defensible criterion that protects the aquatic life designated use. However, some emerging contaminants, such as pharmaceuticals and personal care products exhibiting endocrine disrupting activity or other toxic mechanisms, have features that require additional consideration when applying the Guidelines. These chemicals may demonstrate low acute toxicity but cause significant reproductive effects at very low levels of exposure. In addition, the effects of exposure to aquatic organisms during the early stages of life may not be observed until adulthood. Therefore, traditional chronic toxicity test endpoints may not be sufficiently comprehensive for criteria derivation for these chemicals. These chemicals also have very specific modes of action that

may affect only certain types of aquatic animals (e.g., vertebrates such as fish).

EPA's Office of Water has developed a white paper describing technical issues in deriving aquatic life criteria for emerging contaminants and recommendations for developing such criteria. The white paper uses a model endocrine disrupter to illustrate issues relevant to the process. The Office of Water has asked the Science Advisory Board (SAB) to comment on scientific merit of the recommendations.

For this particular advisory the SAB Staff Office has invited several additional experts to augment the Ecological Processes and Effects Committee. Background information on the Committee formation process was provided in a **Federal Register** Notice published on May 2, 2008 (73 FR 24285-24286). The roster and biosketches of members of the Ecological Processes and Effects Committee Augmented for the Advisory on EPA's Aquatic Life Water Quality Criteria are posted on the SAB Web site at <http://www.epa.gov/sab>.

**Availability of Meeting Materials:** A white paper describing the technical challenges and recommendations for deriving aquatic life criteria for emerging contaminants will be reviewed by the SAB Committee. The white paper will be posted on the EPA Office of Water Web site at <http://www.epa.gov/waterscience/criteria/aqlife.html>. The technical contact for the EPA's white paper is Mr. Joseph Beaman, EPA Office of Water. Mr. Beaman may be contacted by telephone at 202-566-0420 or via e-mail at [Beaman.joe@epa.gov](mailto:Beaman.joe@epa.gov). The agenda and other material for the upcoming public meeting will be posted on the SAB Web site at <http://www.epa.gov/sab>.

**Procedures for Providing Public Input:** Interested members of the public may submit relevant written or oral information for the SAB Panel to consider on the topics included in this advisory activity.

**Oral Statements:** In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Armitage, DFO, in writing (preferably via e-mail) at the contact information noted above, by June 16, 2008 to be placed on the list of public speakers for the teleconference, and by June 23, 2008

to be placed on a list of public speakers for the meeting.

**Written Statements:** Written statements should be received in the SAB Staff Office by June 16, 2008 for the teleconference and by June 23, 2008 for the meeting so that the information may be made available to the SAB Panel members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

**Accessibility:** For information on access or services for individuals with disabilities, please contact Dr. Armitage at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: May 28, 2008.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

[FR Doc. E8-12495 Filed 6-3-08; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-8575-6]**

### **Science Advisory Board Staff Office; Notification of an Upcoming Meeting of the Science Advisory Board Asbestos Committee**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Asbestos Committee to provide consultative advice on the Agency's proposed approach for the estimation of cancer potency factors for inhalation exposure to asbestos.

**DATES:** The meeting dates are Monday, July 21, 2008 from 9 a.m. to 5:30 p.m. through Tuesday, July 22, 2008 from 8:30 a.m. to 4 p.m. (Eastern Time).

**ADDRESSES:** The meeting will be held in the Embassy Suites Hotel, located at 1259 22nd Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Members of the public who wish to obtain further information about this consultation may contact Ms. Vivian Turner, Designated Federal Officer (DFO). Ms. Turner may be contacted at

the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail, (202) 343-9697; fax (202) 233-0643; or e-mail at [turner.vivian@epa.gov](mailto:turner.vivian@epa.gov). General information about the EPA SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the SAB Asbestos Committee will hold a public meeting to provide consultative advice on the Agency's proposed approach for the estimation of cancer potency factors for inhalation exposure to asbestos. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

**Background:** The EPA Office of Solid Waste and Emergency Response (OSWER) has developed a proposed approach for an incremental improvement to the current method that EPA employs for estimating cancer risk from inhalation exposure to asbestos at Superfund sites. The proposed approach serves as an intermediate step in a larger Agency-wide review and update of its asbestos risk assessment. OSWER has requested the SAB provide consultative advice on its *Proposed Approach for Estimation of Bin-Specific Cancer Potency Factors for Inhalation Exposure to Asbestos*. After receiving advice from the SAB, OSWER plans to revise the proposed approach, and seek additional advice from SAB on the revised approach.

In response to OSWER's request, the SAB Staff Office announced that it was forming an Asbestos Committee in 71 FR no. 162 (pages 48926-48927) and 72 FR no. 207 (pages 60844-60845). The roster and biosketches of members of the Asbestos Committee are posted on the SAB Web site at <http://www.epa.gov/sab>.

**Availability of Meeting Materials:** The draft Proposed Approach for Estimation of Bin-Specific Cancer Potency Factors for Inhalation Exposure to Asbestos to be reviewed by the SAB Asbestos Committee will be posted on the

OSWER Web site at <http://www.epa.gov/oswer/riskassessment/asbestos/2008>.

The EPA technical contact for this proposed approach is Mr. Stiven Foster, of EPA's Office of Solid Waste and Emergency Response. Mr. Foster may be contacted by telephone at (202) 566-1911 or via e-mail at [foster.stiven@epa.gov](mailto:foster.stiven@epa.gov). The agenda and other material for the upcoming public meeting will be posted on the SAB Web site at <http://www.epa.gov/sab>.

**Procedures for Providing Public Input:** Interested members of the public may submit relevant written or oral information for the SAB Committee to consider on the topics under review. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Ms. Turner, DFO, in writing (preferably via e-mail) at the contact information noted above, by July 7, 2008 to be placed on a list of public speakers for the meeting.

**Written Statements:** Written statements should be received in the SAB Staff Office by July 7, 2008 so that the information may be made available to the SAB Panel members for their consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

**Accessibility:** For information on access or services for individuals with disabilities, please contact Ms. Turner at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: May 28, 2008.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

[FR Doc. E8-12503 Filed 6-3-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8575-2]

### Meeting of the Total Coliform Rule Distribution System Advisory Committee—Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Under section 10(a)(2) of the Federal Advisory Committee Act, the United States Environmental Protection Agency (EPA) is giving notice of a meeting of the Total Coliform Rule Distribution System Advisory Committee (TCRDSAC). The purpose of this meeting is to discuss the Total Coliform Rule (TCR) revision and information about distribution systems issues that may impact water quality.

The TCRDSAC advises and makes recommendations to the Agency on revisions to the TCR, and on what information should be collected, research conducted, and/or risk management strategies evaluated to better inform distribution system contaminant occurrence and associated public health risks.

Topics to be discussed in the meeting include options for revising the Total Coliform Rule; for example, rule construct, monitoring provisions, system categories, action levels, investigation and follow-up, public notification, and other related topics. In addition, the Committee will discuss possible recommendations for research and information collection needs concerning distribution systems and topics for upcoming TCRDSAC meetings.

**DATES:** The public meeting will be held on Wednesday, June 18, 2008 (8:30 a.m. to 6 p.m., Eastern Time (ET)) and Thursday, June 19, 2008 (8 a.m. to 3 p.m., ET). Attendees should register for the meeting by calling Kate Zimmer at (202) 965-6387 or by e-mail to [kzimmer@resolv.org](mailto:kzimmer@resolv.org) no later than June 13, 2008.

**ADDRESSES:** The meeting will be held at The Churchill Hotel, 1914 Connecticut Ave., NW., Washington, DC 20009.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact Kate Zimmer of RESOLVE at (202) 965-6387. For technical inquiries, contact Sean Conley ([conley.sean@epa.gov](mailto:conley.sean@epa.gov), (202) 564-1781), Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC 4607M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; fax number: (202) 564-3767.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. The Committee encourages the public's input and will take public comment starting at 5:30 p.m. on June 18, 2008, for this purpose. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals interested in

presenting an oral statement may notify Crystal Rodgers-Jenkins, the Designated Federal Officer, by telephone at (202) 564-5275, no later than June 13, 2008. Any person who wishes to file a written statement can do so before or after a Committee meeting. Written statements received by June 13, 2008, will be distributed to all members before any final discussion or vote is completed. Any statements received on June 16, 2008, or after the meeting will become part of the permanent meeting file and will be forwarded to the members for their information.

### Special Accommodations

For information on access or accommodations for individuals with disabilities, please contact Crystal Rodgers-Jenkins at (202) 564-5275 or by e-mail at [rodgers-jenkins.crystal@epa.gov](mailto:rodgers-jenkins.crystal@epa.gov). Please allow at least 10 days prior to the meeting to give EPA time to process your request.

Dated: May 29, 2008.

Nanci E. Gelb,

Acting Office Director, Office of Ground Water and Drinking Water.

[FRL Doc. E8-12476 Filed 6-3-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2007-1011; FRL-8367-2]

### Product Cancellation Order for Pesticide Products Containing Denatonium Benzoate as an Active Ingredient

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Order.

**SUMMARY:** EPA is granting a registrant's voluntary request for cancellation, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), of the pesticide product Tree Guard, EPA Reg. No. 66676-1. This cancellation order follows a November 7, 2007, **Federal Register** Notice of Receipt of Request to Voluntarily Cancel a Pesticide Registration from the sole registrant at the time of products containing denatonium benzoate as the active ingredient. In the November 7, 2007 notice, EPA indicated that it would issue an order implementing the cancellation unless the Agency received substantive comments within the 30 day comment period that would merit its further review of this request, or unless the registrant withdrew their request within this period. The Agency received comments on the notice but none

merited its further review of the request. Further, the registrant did not withdraw their request.

EPA is granting this request for voluntary cancellation. Any distribution, sale, or use of Tree Guard, EPA Reg. No. 66676-1 is permitted only in accordance with the terms of this order, including the existing stocks provisions. EPA has recently approved two applications for registration of substantially similar products pursuant to FIFRA section 3(c)(7)(A), and these products are subject to the same conditions described in this order. As a consequence, all pesticide products containing denatonium benzoate as an active ingredient are cancelled as of December 1, 2009.

**DATES:** The pesticide product Tree Guard, EPA Reg. No. 66676-1, is cancelled effective December 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Andrea Carone, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0122; fax number: (703) 308-8005; e-mail address: [carone.andrea@epa.gov](mailto:carone.andrea@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-1011. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are

from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr>.

#### II. What Action is the Agency Taking?

This notice announces the cancellation, as requested by the registrant, Becker Underwood, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of its product containing denatonium benzoate as an active ingredient registered under section 3 of FIFRA. The registration is listed in Table 1 of this unit.

TABLE 1.—PRODUCT SUBJECT TO THIS CANCELLATION ORDER

EPA Registration Number	Product Name
66676-1	Tree Guard

Table 2 of this unit includes the name and address of record for the registrant of the product in Table 1 of this unit.

TABLE 2.—REGISTRANT OF PRODUCT SUBJECT TO THIS CANCELLATION ORDER

EPA Company Number	Company Name and Address
66676	Becker Underwood, Inc. Dayton Avenue P O Box 667 Ames, Iowa 50010

On October 16, 2007, Becker Underwood requested voluntary cancellation of its pesticide product Tree Guard, EPA Reg. No. 66676-1, pursuant to section 6(f)(1) of FIFRA. On November 7, 2007, EPA published in the **Federal Register** a notice of receipt of this request for voluntary cancellation. At the time of its request for voluntary cancellation, Becker Underwood was the sole registrant of pesticide products containing denatonium benzoate as an active ingredient. However, since this request, two other companies have applied for registration of substantially similar products pursuant to FIFRA section 3(c)(7)(A).

The terms of Becker Underwood's voluntary cancellation are the following:

1. The total amount of Tree Guard that is distributed or sold in the United States in any given calendar year cannot

exceed 300 pounds of the active ingredient denatonium benzoate;

2. The product cancellation is effective December 1, 2009;

3. Becker Underwood may sell and distribute existing stocks until December 1, 2011.

EPA has recently approved, pursuant to FIFRA section 3(c)(7)(A), registrations for products substantially similar to Tree Guard. Both of these products are subject to the same cancellation conditions applicable to Tree Guard and described above in this order. Accordingly, the following products were registered subject to the conditions that the registrations are cancelled effective December 1, 2009, and subject to an annual limit on distribution and sales of 300 lb active ingredient:

TABLE 3.—OTHER PRODUCTS SUBJECT TO THIS CANCELLATION ORDER

Product Name and Registration Number	Company Name and Address
Deer Guard <sub>≤</sub> EPA Reg. No. 84681-1	Repel Holding, Inc. D/B/A Repel Products 1150 18th Street, NW, Ste. 1000 Washington, DC 20036
Gold, N Gro Guard- ian Deer Repellent EPA Reg. No. 84524-2	Ag-Chem Consulting c/o Itronics Metallurgical, Inc.12208 Quinque Lane Clifton, VA 20124

### III. Summary of Public Comments Received and Agency Response to Comments

The Agency received comments during the 30-day public comment period. The comments stated that there is a great need for deer repellent and the annual 300 lb distribution and sales limit is arbitrary and unwarranted.

The Agency appreciates the submitted comments, however the distribution and sales limit is a condition of the voluntary cancellation. For this reason, the Agency does not believe that the comments submitted during the comment period merit further review or a denial of the requests for voluntary cancellation.

### IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellation of Tree Guard, EPA Reg. No. 66676-1. Accordingly, the Agency orders that the registration of Tree Guard, EPA Reg. No. 66676-1, is hereby canceled effective December 1, 2009. Any distribution, sale, or use of existing

stocks of Tree Guard, EPA Reg. No. 66676-1 in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

### V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

### VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

For EPA Registration No. 66676-1 sale by the registrant of existing stocks will be allowed for a period of 24 months, starting from the effective voluntary cancellation date, December 1, 2009.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 28, 2008.

**Peter Caulkins,**

*Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. E8-12386 Filed 6-3-08; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2006-0955; FRL-8367-8]

### Rodenticides Final Risk Mitigation Decision; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's final risk mitigation decision for 10 rodenticides, an addendum to the economic impact assessment, responses to comments on the proposed risk mitigation decision,

and other supporting documents. The 10 rodenticides covered by this risk mitigation decision are brodifacoum, bromadiolone, bromethalin, chlorophacinone, cholecalciferol, difenacoum, difethialone, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide.

EPA's final decision on the rodenticides includes two major components. To minimize children's exposure to rodenticide products used in homes, EPA is requiring that in the future, all rodenticide bait products available for sale to general consumers be sold only in bait stations. To reduce wildlife exposures and ecological risks, the Agency intends to prevent general consumers from purchasing bait products containing the rodenticides that pose the greatest risk to wildlife (the second generation anticoagulants – brodifacoum, bromadiolone, difethialone, and difenacoum) by requiring various measures to control sales and distribution. The Agency's decision will reduce rodenticide exposures to children and non-target wildlife, while ensuring residential users, livestock producers, and professional applicators access to a variety of effective and affordable rodent control products.

**FOR FURTHER INFORMATION CONTACT:** Kelly Sherman, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-8401; fax number: (703) 305-8005; e-mail address: [sherman.kelly@epa.gov](mailto:sherman.kelly@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

This notice is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket

identification (ID) number EPA-HQ-OPP-2006-0955. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>.

## II. Background

### A. What Action is the Agency Taking?

EPA is making available the final risk mitigation decision document and related supporting documents for the following 10 rodenticides: brodifacoum, bromadiolone, bromethalin, chlorophacinone, cholecalciferol, difenacoum, difethialone, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide. This final risk mitigation decision represents the Agency's final decision on the reregistration eligibility of rodenticide products containing brodifacoum, bromadiolone, bromethalin, chlorophacinone, cholecalciferol, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide. It also constitutes the Agency's final action in response to the remand order in "West Harlem Environmental Action and Natural Resources Defense Council v. U.S. Environmental Protection Agency", 380 F.Supp.2d 289 (S.D.N.Y. 2005).

EPA's final decision on the rodenticides includes two major components. To minimize children's exposure to rodenticide products used in homes, EPA is requiring that in the future, all rodenticide bait products available for sale to general consumers be sold only in bait stations. A range of different types of bait stations will meet the new requirements, providing flexibility in cost. To reduce wildlife exposures and ecological risks, the Agency intends to prevent general consumers from purchasing bait products containing the rodenticides that pose the greatest risk to wildlife (the second generation anticoagulants - brodifacoum, bromadiolone, difethialone, and difenacoum) by requiring various measures to control sales and distribution. These new

requirements support EPA's goal of preventing the sale of the second generation anticoagulants on the general consumer market, but will not change how the livestock industry or other professional applicators use rodenticides.

The Agency's decision will reduce rodenticide exposures to children and non-target wildlife, while ensuring residential users, livestock producers, and professional applicators access to a variety of effective and affordable rodent control products.

The decision document, including the Agency's supporting rationale for the decision, can be found in docket identification number EPA-HQ-OPP-2006-0955 at <http://www.regulations.gov>.

Over the past 10 years, EPA has undertaken an open and transparent process to assess and mitigate the risks associated with use of the nine rodenticides as part of the Agency's program to ensure that all pesticides meet current health and safety standards. Draft documents and proposals have been subject to numerous opportunities for public comment; the Agency received over 700 comments in response to the January 2007 proposed decision and is releasing a response to comments along with the decision document. In reaching its regulatory decision on the 10 rodenticides, EPA has worked extensively with its stakeholders, interested Federal agencies, and the public to hear their concerns and suggestions.

### B. What is the Agency's Authority for Taking this Action?

EPA is reevaluating the use of eight of these rodenticides (brodifacoum, bromadiolone, bromethalin, chlorophacinone, cholecalciferol, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide) pursuant to section 4 of FIFRA. The Agency's authority for implementing the risk mitigation measures identified in this risk mitigation decision in regard to all 10 rodenticides derives from various sections of FIFRA, including, but not limited to, sections 3, 4, and 6.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 28, 2008.

**Steve Bradbury,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. E8-12493 Filed 6-3-08; 8:45 am]

BILLING CODE 6560-50-S

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

May 28, 2008.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501-3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 4, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395-5887, or via fax at 202-395-5167 or via internet at [Nicholas\\_A.\\_Fraser@omb.eop.gov](mailto:Nicholas_A._Fraser@omb.eop.gov) and to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), Federal Communications Commission, or an e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov). To view a copy of this information collection request (ICR)

submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review", (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

**FOR FURTHER INFORMATION CONTACT:** For additional information, contact Judith B. Herman at 202-418-0214 or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0139.

*Title:* Application for Antenna Structure Registration.

*Form No.:* FCC Form 854.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Individuals or households; business or other for-profit, not-for-profit institutions, and state, local or tribal government.

*Number of Respondents:* 4,500 respondents; 4,500 responses.

*Estimated Time Per Response:* .50 hours to complete FCC Form 854; 1 hour to place registration number at base of antenna structure.

*Frequency of Response:* On occasion reporting requirement, recordkeeping requirement, third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits.

*Total Annual Burden:* 6,750 hours.

*Total Annual Cost:* \$98,100.

*Privacy Act Impact Assessment:* Yes.

*Nature and Extent of Confidentiality:* Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

This information collection contains personally identifiable information on individuals which is subject to the Privacy Act of 1974. Information on the FCC Form 854 is maintained in the Commission's system of records, FCC/WTB-1, "Wireless Services Licensing Records." These licensee records are publicly available and routinely used in accordance of subsection b of the Privacy Act, 5 U.S.C. 552a(b), as amended. Taxpayer Identification Numbers (TIN) and materials that are

afforded confidential treatment pursuant to a request made under 47 CFR 0.459 will be not available for public inspection.

The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the individual remains a tower owner. Paper records will be archived after being keyed or scanned into the system. Electronic records will be backed up on tape. Electronic and paper records will be maintained for at least twelve years.

*Needs and Uses:* The FCC Form 854 is used to register structures used for wire or radio communication services in any area where radio services are regulated by the Commission; to make changes to existing registered structures or pending applications; or to notify the Commission of the completion of construction or dismantlement of structures, as required by Title 47 of the Code of Federal Regulations (CFR), Chapter 1, Part 17 (FCC Rules Part 17). Section 303(q) of the Communications Act of 1934, as amended, requires the Commission to require the painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna structure may cause a hazard to air navigation. In 1992, Congress amended Sections 303(q) and 503(b)(5) of the Communications Act to: (1) Make antenna structure owners, as well as Commission licensees and permittees responsible for the painting and lighting of antenna structures, and (2) to provide that non-license antenna structure owners may be subject to forfeiture for violations of painting or lighting requirements specified by the Commission.

Currently, each antenna structure owner proposing to construct or alter an antenna structure that is more than 60.96 meters (200 feet) in height, or that may interfere with the approach or departure space of a nearby airport runway must notify the Federal Aviation Administration (FAA) of proposed construction. The FAA determines whether the antenna structure constitutes a potential hazard, and may recommend appropriate painting and lighting for the structure. The Commission then uses the FAA's recommendation to impose specific painting and/or lighting requirements on subject licensees.

The Commission is seeking an extension (no change to the reporting, recordkeeping and/or third party disclosure requirements) in order to obtain the full three year clearance from them. Finally, the Commission is adjusting the annual cost burden due to

fewer respondents using an outside law firm to perform these functions.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. E8-12432 Filed 6-3-08; 8:45 am]

**BILLING CODE 6712-01-P**

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## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (<http://www.fmc.gov>) or contacting the Office of Agreements (202)-523-5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov).

*Agreement No.:* 012044.

*Title:* MOL/CMA CGM Slot Charter Agreement.

*Parties:* CMA CGM S.A. and Mitsui O.S.K. Lines, Ltd.

*Filing Party:* Robert B. Yoshitomi, Esq.; Nixon Peabody, LLP; Gas Company Tower; 555 West Fifth St, 46th Floor; Los Angeles, CA 90013.

*Synopsis:* The agreement authorizes MOL to charter space to CMA CGM in the trade between the United States West Coast and Japan.

*Agreement No.:* 012045.

*Title:* Amazon Service Agreement.

*Parties:* Kawasaki Kisen Kaisha, Ltd. and Bringer Corporation, dba Bringer Lines.

*Filing Party:* Howard A. Levy, Esq.; 80 Wall Street, Suite 1117; New York, NY 10005.

*Synopsis:* The agreement authorizes the parties to share vessel space in the trade between the United States ports and ports in the Caribbean and Brazil.

By Order of the Federal Maritime Commission.

Dated: May 30, 2008.

**Karen V. Gregory,**

*Assistant Secretary.*

[FR Doc. E8-12504 Filed 6-3-08; 8:45 am]

**BILLING CODE 6730-01-P**

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## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an

application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

**Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants**

- AllBlue Global Transport Services, LLC, 1703 Laurel Springs Ln, Kingwood, TX 77339, Officer: Yvonne L. Bennett-Wallace, Manager (Qualifying Individual).
- ATEC Logistics, LLC, 650 South Northlake Blvd., Ste. 400, Altamonte Springs, FL 32701. Officers: Patrick J. Ferry, Managing Member (Qualifying Individual), Michael L. Clements, President.
- Eagle Maritime, Inc., 1421 Witherspoon Street, Rahway, NJ 07065. Officer: Dasharath Patade, President (Qualifying Individual).
- Westwind Transportation Services Inc. dba, Westwind Container Lines, 1225 W. 190th Street, Ste. 300, Gardena, CA 90248. Officer: Gene Nakamura, Vice President (Qualifying Individual).
- Air Ocean Pro's, LLC, 5562 Middlecoff Dr., Huntington Beach, CA 92649. Officer: Gary V. Yaghyazarian, President (Qualifying Individual).
- Scrap-n-Ship Logistics Corp., 810 SW 173 Ave., Pembroke Pines, FL 33029. Officer: Nivardo Diaz, President (Qualifying Individual).
- Seamaster Logistics, Inc., 780 Nogales Street, Ste. D, City of Industry, CA 91748. Officer: Robert H. Wu, President (Qualifying Individual).
- Summit Logistics International, Inc., 800 Federal Boulevard, Carteret, NJ 07008. Officer: Robert H. Wu, President (Qualifying Individual).
- Universal Concord, Inc., 148-36 Guy R. Brewer Blvd., Ste. 207, Jamaica, NY 11434. Officer: Minmin Wang, President (Qualifying Individual).
- United Shipping Lines, Inc., 15200 East Girard Ave., Ste. 4000, Aurora, CO 80014. Officers: Gregory D. Treco, Vice President (Qualifying Individual).
- Hanmi Shipping, Inc., 2694 Coyle Ave., Elk Grove Village, IL 60007. Officer: Keun Joong Jang, President (Qualifying Individual).
- Stolt-Nielsen USA Inc., 15635 Jacintoport Boulevard, Houston, TX 77015. Officers: Alan B. Winsor, Secretary (Qualifying Individual). Coscoex (CGL), Inc., 11854 S. Alameda Street, Lynwood, CA 90262. Officer: David Fernandes, Secretary (Qualifying Individual).
- Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant**
- Hanmi Shipping, Inc., 2694 Coyle Ave., Elk Grove Village, IL 60007. Officer: Keun Joong Jang, President (Qualifying Individual).
- GLS Logistics Inc., 147-20 181st Street, Springfield Gardens, NY 11413. Officer: Sandy Castillo, Vice President (Qualifying Individual).
- RBA Logistics, Inc., 2804 N. Cannon Blvd., Kannapolis, NC 28083. Officers: Paul L. Blackwelder, Vice President (Qualifying Individual), Mary O. Bare, President.
- Green Worldwide Shipping, LLC, 2752 East Ponce de Leon, Ste. I, Decatur, GA 30030. Officer: Thomas Jorgensen, President (Qualifying Individual).
- Victory Worldwide Inc., 531 Parkside Drive, Carol Stream, IL 60188. Officer: James S. Yeo, President (Qualifying Individual).
- Thunderbird Logistic, Inc., 7735 East Redfield Road, Ste. 100, Scottsdale, AZ 85260. Officers: Shu-Hsia J. Fogle, Vice President, (Qualifying Individual) Xinyang K. Chen, President.
- Joker Logistics Exhibitions & Events, Inc., 11301 Metro Airport Center Dr., Ste. 170, Romulus, MI 48174. Officer: Daniel Hradetzky, Vice President (Qualifying Individual).
- United Logistics Corp., 3650 Mansell Road, Ste. 400, Alpharetta, GA 30022. Officer: Jason S. Ewing, Operations Manager (Qualifying Individual).
- JRC Logistics (SAIPAN), Inc., JRC Compound, Corner Essok Rd. Koblerville, Saipan, MP 96950. Officers: Jijomar R. Espinosa, President (Qualifying Individual), Vergelia E. Espinosa, Vice President.
- Netcycle Trading Corp., 8020 NW 87 Street, Miami, FL 33166. Officers: Nadia E. Ledesma, President (Qualifying Individual), Fernando Rincon, Vice President.
- United Trading & Shipping Company, 5613 Leesburg Pike, #8, Falls Church, VA 22041. Officers: Ahmad T. Solaiman, General Manager, (Qualifying Individual) Hosam A. Solaiman, Owner.
- U.S.A. Export Company, Inc., 14210 Autumn Crest Road, Boyds, MD 20841. Officer: Carlos A. Paqueto, Owner (Qualifying Individual).
- LTH Logistics, Inc. dba LTH Express, 11200 S. Hindry Avenue, Ste. D, Los Angeles, CA 90045. Officer: Yopis Tangkilisan, President (Qualifying Individual).
- Bekins Independence Forwarders, Inc., 330 S. Mannheim Road, Hillside, IL 60162. Officer: Michael Petersen, President (Qualifying Individual).
- Miami International Freight Solutions, LLC, 6301 East 10 Ave., Hialeah, FL 33013. Officers: Leonard C. Roberts, Managing Member (Qualifying Individual), George A. Creech, Managing Member.
- Universal Transpacific Carrier, Inc., 100 Lighting Way, Suite 4000, Secaucus, NJ 07094. Officers: Rudy Steudel, Vice President (Qualifying Individual).
- Dependable Worldwide Express, LLC, 333 Hegenberger Road, Ste. 315, Oakland, CA 94621. Officer: Julie Lu, Member (Qualifying Individual).
- Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants**
- Penbroke Marino Services Inc., 975 East Linden Avenue, Linden, NJ 07036. Officer: Brian J. Brennan, President (Qualifying Individual).
- KN Special Logistics, Inc., 222780 Indian Creek Drive, Ste. 160, Sterling, VA 20166. Officers: Uwe Ellerhorst, Vice President (Qualifying Individual), James W. Sinnott, President.
- MJS Trading, Inc., 13350 NW 42nd Ave., Ste. 13, Opa Locka, FL 33054. Officers: Emilia V. Villanueva, Vice President (Qualifying Individual), Maria L. Romero, President.
- BC & M Logistics, LLC, 575 Crandon Blvd., Ste. 601, Key Biscayne, FL 33149. Officers: Rodrigo Helou, Manager (Qualifying Individual), Javier Solanet, Owner.
- Supreme International Shippers and Movers Inc., 4466 NW 74th Ave., Miami, FL 33166. Officers: John Celmetsen, President (Qualifying Individual), Omar Clemetsen, Vice President.
- United World Freight, LLC, 916 Savitt Place, Union, NJ 07083. Officer: Sunil Gudhka, C.O.O. (Qualifying Individual).

Dated: May 30, 2008.

**Karen V. Gregory,**

*Assistant Secretary.*

[FR Doc. E8-12502 Filed 6-3-08; 8:45 am]

**BILLING CODE 6730-01-P**

**FEDERAL RESERVE SYSTEM****Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 19, 2008.

**A. Federal Reserve Bank of Atlanta** (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. *Marion Edwin Lowery*, Franklin, Tennessee, to acquire voting shares of Farmers Bancorp, Inc., and thereby indirectly acquire voting shares of Farmers Bank of Lynchburg, both of Lynchburg, Tennessee.

**B. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *The Yvonne M. Connolly Irrevocable Trust and Yvonne M. Connolly, as co trustee*, both of Benson, Minnesota, to retain and acquire additional voting shares of West 12 Bancorporation, Inc., and thereby indirectly retain and acquire additional voting shares of State Bank of Danvers, both of Danvers, Minnesota.

Board of Governors of the Federal Reserve System, May 30, 2008.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E8-12415 Filed 6-3-08; 8:45 am]

**BILLING CODE 6210-01-S**

**FEDERAL RESERVE SYSTEM****Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 30, 2008.

**A. Federal Reserve Bank of Kansas City** (Todd Offenbacher, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Stockmens Financial Corporation*, Rapid City, South Dakota, to acquire 100 percent of the voting shares of Homestead Financial Corporation, and thereby indirectly acquire voting shares of The First National Bank and Trust, both in Beatrice, Nebraska.

Board of Governors of the Federal Reserve System, May 30, 2008.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E8-12416 Filed 6-3-08; 8:45 am]

**BILLING CODE 6210-01-S**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Office of the Assistant Secretary for Preparedness and Response; HHS Public Health Emergency Medical Countermeasures Enterprise Stakeholders Workshop 2008.**

**AGENCY:** Department of Health and Human Services.

**ACTION:** Notice of meeting.

*Subagency:* Office of the Secretary.

*Subject:* HHS Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) Stakeholders Workshop 2008.

**Authority:** Dr. Gerald Parker, Principal Deputy Assistant Secretary, Office of the Assistant Secretary for Preparedness and Response (ASPR).

**SUMMARY:** The Department of Health and Human Services (HHS) is pleased to announce the upcoming HHS Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) Stakeholders Workshop 2008, to be held September 24-26, 2008, in Arlington, VA. This third annual event will provide an open forum for pharmaceutical and biotechnology industry representatives, state and local first responders, Executive Branch officials, public health advocates, academicians, Congressional staff, and other key stakeholders to discuss critical issues surrounding the development, acquisition, and distribution of medical countermeasures against chemical, biological, radiological, nuclear, and naturally emerging threats, and to share their visions for the future of U.S. public health emergency preparedness.

Featured topics will include PHEMCE progress over the past year in medical countermeasure development and acquisitions under the *HHS PHEMCE Implementation Plan for Chemical, Biological, Radiological and Nuclear Threats* and the *HHS Pandemic Influenza Implementation Plan*; Biomedical Advanced Research and Development Authority (BARDA) anticipated advanced development contracts and procurements under Project BioShield; medical countermeasure use at the point of care; Pandemic and All-Hazards Preparedness Act (PAHPA) implementation; and developing and sustaining a biodefense industry. This year's Workshop will also feature BARDA Industry Afternoons and evening poster sessions, designed to provide unique opportunities for biotechnology and pharmaceutical industry representatives to showcase cutting-edge biodefense medical countermeasure advances in the areas of vaccines, therapeutics, diagnostics, and platform technologies.

**DATES:** The Workshop will be held September 24-26, 2008. Each day will begin at 8 a.m.

**ADDRESSES:** The Workshop will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

*Agenda:* The preliminary agenda is available at: <http://>

[www.blsmmeetings.net/phemc/informationagenda.cfm](http://www.blsmmeetings.net/phemc/informationagenda.cfm).

**Registration:** There is no fee to attend; however, space is limited and registration is required. Register online at <http://www.blsmmeetings.net/phemc/registration.cfm>.

**DATES:** This notice is effective 27 May 2008.

**FOR FURTHER INFORMATION CONTACT:** Joanna M. Prasher, Ph.D., Office of the Biomedical Advanced Research and Development Authority, Office of the Assistant Secretary for Preparedness and Response at 330 Independence Ave., SW., Room G640, Washington, DC 20201, e-mail at [BARDA@hhs.gov](mailto:BARDA@hhs.gov), or by phone at 202-260-1200.

Dated: May 29, 2008.

**Robin A. Robinson,**

*Director, Biomedical Advanced Research and Development Authority.*

[FR Doc. E8-12485 Filed 6-3-08; 8:45 am]

**BILLING CODE 4163-10-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting:

**Name:** National Advisory Council on the National Health Service Corps.

**Dates and Times:** July 10, 2008, 3 p.m.-5 p.m.; July 11, 2008, 8:30 a.m.-5 p.m.; and July 12, 2008, 9 a.m.-5 p.m.; and July 13, 2008, 7 a.m.-11 a.m.

**Place:** Ambassador Hotel, 2308 W. Wisconsin Ave., Milwaukee, Wisconsin 53233, Phone: 414-345-5000.

**Status:** The meeting will be open to the public.

**Agenda:** The Council will be conducting a site visit to a local health center in Milwaukee, Wisconsin, and will be meeting the National Health Service Corps program participants to get feedback on the program. The agenda will also cover priorities to be set for the upcoming calendar year for the Council.

**FOR FURTHER INFORMATION CONTACT:** Tira Patterson, Bureau of Clinician Recruitment and Service, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857; e-mail: [TPatterson@hrsa.gov](mailto:TPatterson@hrsa.gov); telephone: 301-594-4140.

Dated: May 28, 2008.

**Alexandra Huttinger,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. E8-12461 Filed 6-3-08; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Advisory Committee on Interdisciplinary, Community-Based Linkages; Notice of Request for Nominations

**SUMMARY:** The Health Resources and Services Administration (HRSA) is requesting nominations to fill five (5) upcoming vacancies on the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL).

**Authority:** 42 U.S.C. 294f, section 756 of the PHS Act, as amended. The Advisory Committee is governed by provisions of Public Law (Pub. L.) 92-463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

**DATES:** The Agency must receive nominations on or before June 30, 2008.

**ADDRESSES:** All nominations are to be submitted by mail to Louis D. Coccodrilli, Designated Federal Official, ACICBL, Bureau of Health Professions (BHP), HRSA, Parklawn Building, Room 9-36, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Adriana Guerra, Public Health Fellow, Division of Diversity and Interdisciplinary Education, by e-mail, [aguerra@hrsa.gov](mailto:aguerra@hrsa.gov) or telephone, (301) 443-6194.

**SUPPLEMENTARY INFORMATION:** Under the authorities that established the ACICBL, the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463), and section 2119 of the Act, 42 U.S.C. 00aa-19, as added by Public Law 99-660 and amended, HRSA is requesting nominations for five (5) voting members.

The ACICBL provides advice and recommendations to the Secretary and to the Congress concerning policy, program development and other matters of significance related to interdisciplinary, community-based training grant programs authorized under sections 751-756, Title VII, Part D of the Public Health Service Act. The ACICBL prepares an annual report describing the activities conducted during the fiscal year, identifying findings and developing

recommendations to enhance Title VII Interdisciplinary, Community-Based Training Grant Programs. The Annual Report is submitted to the Secretary of the U.S. Department of Health and Human Services, and ranking members of the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives.

The Department of Health and Human Services is requesting a total of five (5) nominations for voting members of the ACICBL from schools that have administered or are currently administering awards from the following programs: Allied Health—one (1) nominee, Geriatric Education and Training Programs—one (1) nominee, and Health Education and Training Centers (HETCs)—one (1) nominee. Nominations are also requested for two (2) students, residents, and/or fellow representatives. The legislation governing this Committee requires a fair balance of health professionals who represent the general population with regard to a broad geographic distribution and an evenness of urban and rural areas, along with professionals who are women and minorities. As such, the pool of appropriately qualified nominations should reflect these requirements to the degree possible.

Interested individuals may nominate multiple qualified professionals for membership to the ACICBL to allow the Secretary a diverse listing of highly qualified potential candidates. Nominees willing to serve as members of the ACICBL should not have an appearance of a conflict of interest that would preclude their participation. Potential candidates will be asked to provide detailed information concerning consultancies, research grants, or contracts to permit an evaluation of possible sources of conflicts of interest. In addition, a curriculum vitae and a statement of interest will be required of the nominee to support experience working with Title VII Interdisciplinary, Community-Based Training Grant Programs, expertise in the field, and personal desire in participating on a National Advisory Committee. Qualified candidates will be invited to serve a one-, two- or three-year term. All nominations must be received no later than June 30, 2008.

Dated: May 28, 2008.

**Alexandra Huttinger,**

*Acting Director, Division of Policy Review and Coordination.*

[FR Doc. E8-12464 Filed 6-3-08; 8:45 am]

**BILLING CODE 4165-15-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Submission for OMB Review; Comment Request; Inventory and Evaluation of Clinical Research Networks**

**SUMMARY:** Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Center for Research Resources (NCRR), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 24, 2008, Vol. 73, No. 57, page 15530, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information

collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

*Proposed Collection: Title:* Inventory and Evaluation of Clinical Research Networks. *Type of Information Collection Request:* REVISION of OMB #0925-0550 *Expiration:* 07/31/08. *Need and Use of Information Collection:* Through the original data collection, the IECRN project identified and surveyed clinical research networks to obtain data for two purposes: (1) To create a web-based inventory of clinical research networks that can be accessed by the clinical research community and the general public and (2) to prepare a detailed description of existing network practices from a sample of identified networks. The current request is to continue collecting data for the first purpose only. The instrument known as the *Core Survey* will be used to collect information to confirm that the respondent is truly a clinical research network, plus basic characteristics about each identified clinical research network to be included in the web-

based inventory. The information for the inventory database includes the network's name, address, contact information, funding sources, age, geographic coverage, size, composition, and populations and diseases of focus. Permission to post the network's data in the web-based public inventory will be requested, and only those networks that agree will have their information posted. Currently the inventory includes "network profiles" for approximately 270 clinical research networks. While this number is believed to represent most of the existing networks, some networks have not yet been identified, are unaware of the existence of the inventory, or are newly formed since the original data collection occurred. In addition, each network in the inventory is requested annually to update the information posted in its "network profile" to ensure that the inventory is complete and accurate. *Frequency of Response:* Once (*Core Survey*), Annually (*Network Updates*). *Affected Public:* Individuals; *Type of Respondents:* Health Professionals (Physicians and others involved in research networks).

TABLE A12.1.—ESTIMATE OF ANNUAL HOUR BURDEN AND ANNUALIZED COST TO RESPONDENTS

Type of respondent	Number of responses	Frequency of response	Time per response (minutes/hours)	Annual burden hour	Hourly wage rate	Respondent cost
<b>Core Survey</b>						
Principal Investigator .....	20	1	15/60	5	70.00	350.00
<b>Annual Update</b>						
PI/network contact	280	1	10/60	46.6667	70.00	3,266.67
Total .....				51.7		\$3,616.67

The annualized cost to respondents is estimated at: \$3,617. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the

collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, or *OIRA\_submission@omb.eop.gov* or by fax to 202-395-6974, Attention: Desk Officer for NIH.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Jody Sachs,

National Center for Research Resources, NIH, Room 917, 6701 Rockledge Drive, Bethesda, MD 20892-4874, or call 301-435-0802.

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: May 29, 2008.

**Jody Sachs,**  
*Project Officer, NCRR, National Institutes of Health.*

[FR Doc. E8-12383 Filed 6-3-08; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, B/START Review.

*Date:* June 27, 2008.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852. (Virtual Meeting)

*Contact Person:* Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892-8401, (301) 435-1389, [ms80x@nih.gov](mailto:ms80x@nih.gov).

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Exploratory Centers for Translational Research.

*Date:* July 1-2, 2008.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications

*Place:* Sofitel Lafayette Square, 806 15th Street, NW., Washington, DC 20005.

*Contact Person:* Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892-8401, (301) 435-1389, [ms80x@nih.gov](mailto:ms80x@nih.gov).

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, NIDA-K Conflicts SEP.

*Date:* July 8, 2008.

*Time:* 5 p.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

*Contact Person:* Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101

Executive Boulevard, Suite 220, Bethesda, MD 20892-8401, (301) 435-1389, [ms80x@nih.gov](mailto:ms80x@nih.gov).

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Effectiveness of SBIRT in Medical Settings for Reducing Drug Abuse and Sequelae.

*Date:* July 9, 2008.

*Time:* 8:30 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

*Contact Person:* Jose F. Ruiz, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Rm. 213, MSC 8401, Bethesda, MD 20892, 301-451-3086, [ruizjf@nida.nih.gov](mailto:ruizjf@nida.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 28, 2008.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E8-12388 Filed 6-3-08; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-R-2008-N0104; 10120-1113-0000-F5]

#### Endangered Wildlife and Plants; Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of application to amend permit; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on the following application to amend an existing permit to conduct certain activities with endangered species.

**DATES:** We must receive your written data or comments by July 7, 2008.

**ADDRESSES:** Program Manager, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, OR 97232-4181.

**FOR FURTHER INFORMATION CONTACT:** Grant Canterbury, Fish and Wildlife Biologist, at the above address or by telephone (503-231-2063) or fax (503-231-6243).

**SUPPLEMENTARY INFORMATION:** The following applicant has applied to amend an existing scientific research permit to conduct certain activities with endangered species under section

10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). We solicit review and comment from local, State, and Federal agencies and the public.

#### Permit No. TE-043628

*Applicant:* Institute for Applied Ecology, Corvallis, Oregon.

The applicant requests an amendment to an existing permit to remove/reduce to possession (collect seeds, seed restoration sites, and start production fields) *Lomatium bradshawi* (Bradshaw's lomatium) in conjunction with research in Benton, Lane, and Linn Counties, Oregon, for the purpose of enhancing its survival. This permit currently covers collection of seeds of *Erigeron decumbens* ssp. *decumbens* (Willamette daisy), for which a notice was originally published in the **Federal Register** on June 5, 2003 (68 FR 33732).

#### Public Review of Comments

Please refer to the permit number for the application when submitting comments.

We solicit public review and comment on this recovery permit application. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: April 28, 2008.

**Renne R. Lohofefener,**

*Regional Director, Region 1, U.S. Fish and Wildlife Service.*

[FR Doc. E8-12417 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R2-ES-2008-N0081; 20124-1113-0000-F5]

#### Endangered and Threatened Species Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications.

**SUMMARY:** The following applicants have applied for scientific research permits to

conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

**DATES:** To ensure consideration, written comments must be received on or before July 7, 2008.

**ADDRESSES:** Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Chief, Endangered Species Division, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103, (505) 248-6920.

**SUPPLEMENTARY INFORMATION:**

**Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Permit TE-175891**

*Applicant:* Robert Burton, Winkelman, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

**Permit TE-051819**

*Applicant:* Fort Worth Zoo, Fort Worth, Texas.

Applicant requests an amendment to a current permit to establish and maintain captive breeding facilities for Barton Spring salamander (*Eurycea sosorum*) and Houston toad (*Bufo houstonensis*) within the Fort Worth Zoo.

**Permit TE-037118**

*Applicant:* Scott Carroll, Tucson, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

**Permit TE-178778**

*Applicant:* Jane Marks, Marks Lab of Aquatic Ecology, Northern Arizona University.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of Gila topminnow (*Poeciliopsis occidentalis*) and razorback sucker (*Xyrauchen texanus*) within Fossil Creek and Gila Counties, Arizona.

**Permit TE-794593**

*Applicant:* Texas State Aquarium, Corpus Christi, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to hold and maintain brown pelicans (*Pelecanus occidentalis*) within the Texas State Aquarium.

**Permit TE-014168**

*Applicant:* Peter Sprouse, Buda, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species: San Marcos salamander (*Eurycea nana*), Texas blind salamander (*Eurycea rathbuni*), Peck's Cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), and Mexican blindcat (catfish) (*Prietella phreatophila*) within Texas.

**Permit TE-051832**

*Applicant:* Phoenix Zoo, Phoenix, Arizona.

Applicant requests an amendment to a current permit to hold and maintain the following species: Mexican gray wolf (*Canis lupus baileyi*), thick-billed parrot (*Rhynchopsitta pachyrhyncha*), masked bobwhite quail (*Colinus virginianus ridgwayi*), speckled dace (*Rhinichthys osculus*), Gila topminnow (*Poeciliopsis occidentalis*), and desert pupfish (*Cyprinodon macularius*) within the Phoenix Zoo.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: May 1, 2008.

**Thomas L. Bauer,**

*Acting Regional Director, Southwest Region, Fish and Wildlife Service.*

[FR Doc. E8-12466 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

[FWS-R8-ES-2008-N0109; 80221-1112-0000-F2]

**Tehachapi Uplands Multi-Species Habitat Conservation Plan**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service), advise the public of our intent to gather information necessary to prepare an Environmental Impact Statement (EIS) on the Tehachapi Uplands Multi-species Habitat Conservation Plan (MSHCP). Tejon Ranch is preparing the MSHCP to apply for a 50-year incidental take permit under Section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, as amended, (Act). The permit is needed to authorize the incidental take of threatened and endangered species that could occur as a result of activities covered by the plan.

The Service provides this notice to (1) describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues to be included in the EIS. Similar Notices of Intent were published on June 25, 2004 (69 FR 35663) and March 26, 2008 (73 FR 16052). This notice is being published to clarify the proposed action, to correct a previous **ADDRESSES** error, and to allow additional public input.

**DATES:** Written comments should be received on or before July 7, 2008.

**ADDRESSES:** Written comments submitted to Mary Grim, Section 10 Program Coordinator, U.S. Fish and Wildlife Service, 2800 Cottage Way, W-2605, Sacramento, CA 95825. Comments may also be sent by e-mail to [tu\\_hcp\\_eis@fws.gov](mailto:tu_hcp_eis@fws.gov). Comments previously received during previous public scoping periods will also be considered.

**FOR FURTHER INFORMATION CONTACT:** Mary Grim, U.S. Fish and Wildlife Service, at 916-414-6464.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9 of the Act and Federal regulations prohibit the "take" of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The Act

defines the term “take” as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the Act, the Service may issue permits to authorize “incidental take” of listed animal species. “Incidental Take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22. All species included on an incidental take permit would receive assurances under the Service’s “No Surprises” regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)].

Species proposed for coverage in the HCP are species that are currently listed as federally threatened or endangered or have the potential to become listed during the life of this MSHCP and have some likelihood to occur within the project area. Should any of the unlisted covered wildlife species become listed under the Act during the term of the permit, take authorization for those species would become effective upon listing. Six plant species and 28 animal species are known to occur within the area and are proposed to be covered by the MSHCP. Species may be added to or deleted from the list of proposed covered species during the course of the development of the MSHCP based on further analysis, new information, agency consultation, and public comment. Currently, the MSHCP would include the following federally listed animal species: California condor (*Gymnogyps californianus*), least Bell’s vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), Valley elderberry longhorn beetle (*Democerus californicus dimorphus*), and Western yellow-billed cuckoo (*Coccyzus americanus occidentalis*). The MSHCP would also include the following State listed and unlisted species: Tehachapi slender salamander (*Batrachoseps stebbinsi*), bald eagle (*Haliaeetus leucocephalus*), American peregrine falcon (*Falco peregrines anatum*), little willow flycatcher (*Empidonax traillii brewsteri*), golden eagle (*Aquila chrysaetos*), white-tailed kite (*Elanus leucorox*), ringtail (*Bassariscus astutus*), tricolored blackbird (*Agelaius tricolor*), California spotted owl (*Strix*

*occidentalis occidentalis*), Tehachapi pocket mouse (*Perognathus alticolus inexpectatus*), burrowing owl (*Athene cunicularia*), yellow-blotched salamander (*Ensatina eschscholtzi croceater*), western spadefoot (*Spea hammondi*), purple martin (*Progne subis*), northern goshawk (*Accipiter gentilis*), coast horned lizard (frontale and blainvilli populations) (*Phrynosoma coronatum*), Cooper’s hawk (*Accipiter cooperii*), yellow-breasted chat (*Icteria virens*), prairie falcon (*Falco mexicanus*), northern harrier (*Circus cyaneus*), long-eared owl (*Asio otus*), two-striped garter snake (*Thamnophis hammondi*), round-leaved filaree (*Erodium macrophyllum*), Fort Tejon woolly sunflower (*Eriophyllum lanatum* var. *hallii*), Kusche’s sandwort (*Amenaria macradenia* var. *kuschei*), Tehachapi buckwheat (*Eriogonum callistum*), American badger (*Taxidea taxus*), striped adobe lily (*Fritillaria striata*), and Tejon poppy (*Eschscholzia lemmonii* ssp. *Kernensis*).

Activities proposed to be covered by the MSHCP include limited private development; livestock grazing and range management; film production; maintenance and construction of underground utilities; recreation with the exception of hunting; existing commercial and residential improvements; farming and irrigation systems; repair, maintenance, and use of roads; and existing mineral extraction facilities. The MSHCP would not cover hunting, nor would it cover the lethal take of California condors. The MSHCP will propose a conservation strategy to minimize and mitigate to the maximum extent possible any impacts that would occur to covered species as the result of the covered activities.

#### Environmental Impact Statement

The EIS will consider the proposed action (i.e., the issuance of a section 10(a)(1)(B) permit under the Act), no action (no section 10 permit), and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS. The EIS will also identify potentially significant impacts on biological resources, land use, air quality, water resources, transportation, and other environmental resource issues that could occur directly or indirectly with implementation of the proposed action and alternatives. Different strategies for avoiding, minimizing, and mitigating the impacts of incidental take may also be considered.

Environmental review of the EIS will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 et seq.), its implementing regulations

(40 CFR parts 1500–1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR Section 1501.7 and 1508.22 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS. The primary purpose of the scoping process is to identify important issues raised by the public related to the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the permit application is identified. Comments will only be accepted in written form. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 29, 2008.

#### Ken McDermond,

Deputy Regional Director, California Nevada Region, Sacramento, California.

[FR Doc. E8–12426 Filed 6–3–08; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R9–IRTM–2008–N0095; 90250–1660–6050–9Z]

#### Privacy Act of 1974; Amendments to Existing Systems of Records

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed amendment of existing Privacy Act systems of records.

**SUMMARY:** In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the U.S. Fish and Wildlife Service of the Department of the Interior is issuing public notice of its intent to amend 19 existing Privacy Act systems of records notices to add a new routine use to authorize the disclosure of records to individuals involved in responding to a breach of Federal data.

**DATES:** Comments must be received by July 14, 2008. The notice will be

effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

**ADDRESSES:** Any persons interested in commenting on these proposed amendments may do so by submitting comments in writing to the U.S. Fish and Wildlife Service Privacy Act Officer, Johnny R. Hunt, 4401 North Fairfax Drive, Division of Information and Resources Technology Management, MS-380, Arlington Square Building, 4401 North Fairfax Drive, Arlington, VA 22203, or by e-mail to [Johnny\\_Hunt@fws.gov](mailto:Johnny_Hunt@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** U.S. Fish and Wildlife Service Privacy Act Officer, Johnny R. Hunt, 4401 North Fairfax Drive, Division of Information and Resources Technology Management, MS-380, Arlington Square Building, 4401 North Fairfax Drive, Arlington, VA 22203, or by e-mail to [Johnny\\_Hunt@fws.gov](mailto:Johnny_Hunt@fws.gov).

**SUPPLEMENTARY INFORMATION:** On May 22, 2007, in a memorandum for the heads of Executive Departments and Agencies entitled "Safeguarding Against and Responding to the Breach of Personally Identifiable Information," the Office of Management and Budget directed agencies to develop and publish a routine use for disclosure of information in connection with response and remedial efforts in the event of a data breach. This routine use will serve to protect the interests of the individuals, whose information is at issue by allowing agencies to take appropriate steps to facilitate a timely and effective response to the breach, thereby improving the agency's ability to prevent, minimize, or remedy any harm resulting from a compromise of data maintained in its systems of records. Accordingly, the Fish and Wildlife Service of the Department of the Interior is proposing to add a new routine use to authorize disclosure to appropriate agencies, entities, and persons of information maintained in the following systems in the event of a data breach. These amendments will be effective as proposed at the end of the comment period unless comments are received that would require a contrary determination. We will publish a

revised notice if changes are made based upon a review of comments received.

**Johnny R. Hunt,**

*U.S. Fish and Wildlife Service Privacy Act Officer.*

**SYSTEM NAMES:**

Interior, FWS-3: "Security File", (Published March 24, 1981, 46 FR 18368).

Interior, FWS-4: "Tort Claim Records", (Published December 6, 1983, 48 FR 54715).

Interior, FWS-5: "National Wildlife Special Use Permits", (Published December 6, 1983, 48 FR 54716).

Interior, FWS-6: "Hunting and Fishing Survey Records", (Published March 24, 1981, 46 FR 18370).

Interior, FWS-7: "Water Development Project and/or Effluent Discharge Permit Application", (Published March 24, 1981, 46 FR 18370-18371).

Interior, FWS-10: "National Fish Hatchery Special Use Permits", (Published December 6, 1983, 48 FR 54717).

Interior, FWS-11: "Real Property Records", (Published December 6, 1983, 48 FR 54717).

Interior, FWS-13: "North American Breeding Bird Survey", (Published April 11, 1977, 42 FR 19086).

Interior, FWS-17: "Diagnostic—Extension Service Records", (Published April 11, 1977, 42 FR 19088).

Interior, FWS-19: "Endangered Species License System", (Published December 6, 1983, 48 FR 54718).

Interior, FWS-20: "Investigative Case File System", (Published December 6, 1983, 48 FR 54719).

Interior, FWS 21: "Permits System", (Published September 4, 2003, 68 FR 52610-52612).

Interior, FWS 22: "U.S. Deputy Game Warden", (Published March 24, 1981, 46 FR 18375).

Interior, FWS 23: "Motor Vehicle Permit Log", (Published March 24, 1981, 46 FR 18376).

Interior, FWS 25: "Contract and Procurement Records", (Published December 6, 1983, 48 FR 54721).

Interior, FWS 26: "Migratory Bird Population and Harvest Systems", (Published March 24, 1981, 46 FR 18378).

Interior, FWS 27: "Correspondence Control System", (Published April 11, 1977, 42 FR 19092).

Interior, FWS 30: "Marine Mammals Management, Marking, Tagging and Reporting Program", (Published August 5, 1993, 58 FR 41803).

Interior, FWS 34: "National Conservation Training Center Training Server System", (Published April 11, 2002, 67 FR 17711).

**NEW ROUTINE USE:**

Disclosures outside the Department of the Interior may be made:

To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E8-12402 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS-R6-ES-2008-N0097; 60120-1113-0000-D2]**

**Receipt of Application of Endangered Species Recovery Permits**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and receipt of applications.

**SUMMARY:** We announce our receipt of applications to conduct certain activities pertaining to enhancement of survival of endangered species.

**DATES:** Written comments on this request for a permit must be received by July 7, 2008.

**ADDRESSES:** Written data or comments should be submitted to the Assistant Regional Director, Fisheries—Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225-0486; facsimile 303-236-0027. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act [5 U.S.C. 552A] and Freedom of Information Act [5 U.S.C. 552], by any party who submits a request for a copy of such documents within 30 days of the date of publication of this notice to Kris Olsen, by mail or by telephone at 303-236-4256. All

comments received from individuals become part of the official public record.

**SUPPLEMENTARY INFORMATION:** The following applicants have requested issuance of enhancement of survival permits to conduct certain activities with endangered species pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

*Applicant:* Montana Department of Fish, Wildlife, and Parks, Helena, Montana, TE-047250. The applicant requests a permit amendment to add rearing up to 1,500 pallid sturgeon (*Scaphirhynchus albus*) in lined, outdoor ponds and to possess 50 pallid sturgeon (*Scaphirhynchus albus*) mortalities for educational purposes in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

*Applicant:* Nebraska Game and Parks Commission, Lincoln, Nebraska, TE-069300. The applicant requests a permit amendment to allow removal of fin rays from recaptured hatchery reared pallid sturgeon (*Scaphirhynchus albus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

*Applicant:* SWCA, Inc., Broomfield, Colorado, TE-047252. The applicant requests a renewed permit to survey for Southwestern willow flycatchers (*Empidonax traillii extimus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* U.S. Geological Survey, Colorado Plateau Division, Flagstaff, Arizona, TE-047257. The applicant requests a renewed permit to survey for Southwestern willow flycatchers (*Empidonax traillii extimus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* U.S. Fish and Wildlife Service, Region 6, Denver, Colorado, TE-704930. The applicant requests a renewal of this current permit for take activities for all listed species in the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. This permit will allow Fish and Wildlife Service employees to lawfully conduct threatened or endangered species activities, in conjunction with recovery activities, throughout the species' range for the purpose of enhancing survival and recovery as outlined in Fish and

Wildlife Service employees' position descriptions.

*Applicant:* Bureau of Land Management, Kanab Field Office, Kanab, Utah, TE-180540. The applicant requests a permit to survey for Southwestern willow flycatchers (*Empidonax traillii extimus*) and California condors (*Gymnogyps californianus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Dated: April 30, 2008.

**Stephen D. Guertin,**

*Regional Director, Denver, Colorado.*

[FR Doc. E8-12469 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Western Shoshone Application Form, Submission to Office of Management and Budget

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Submission of Information Collection.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for the renewal of a tribal enrollment information collection as required by the Paperwork Reduction Act. The information, collected under OMB Control No. 1076-0165, will be used to establish that the applicants meet the eligibility requirements to share in the Western Shoshone judgment fund distribution.

**DATES:** Submit comments on or before July 7, 2008.

**ADDRESSES:** You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile at (202) 395-6566 or you may send an e-mail to: [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov). Please send copy of comments to Iris Drew, Office of Indian Services, Bureau of Indian Affairs, 1001 Indian School Road, NW., Albuquerque, New Mexico 87104. Fax number: (505) 563-3060.

**FOR FURTHER INFORMATION CONTACT:** Ms. Iris Drew, Tribal Relations Specialist, Tribal Government Services. Telephone: (505) 563-3530.

**SUPPLEMENTARY INFORMATION:** This collection was authorized by the Act of July 7, 2004, Public Law 108-270 and originally approved and assigned OMB Control No. 1076-0165 when it was

submitted with a proposed rulemaking, 25 CFR part 61, which was published in the **Federal Register** on May 19, 2005, at 70 FR 28859. The final rule was published in the **Federal Register** on March 5, 2007, at 72 FR 9836. A request for comments on this information collection request appeared in the **Federal Register** (73 FR 10461) on February 27, 2008. No comments were received during or before the close of the public comment period of April 28, 2008.

*Request for Comments:* Please send your comments on this collection to the two locations listed in the **ADDRESSES** section. Your comments should be about the proposed collection to evaluate:

(a) The necessity of the information collection for proper performance of the bureau functions, including its practical utility;

(b) The accuracy of the burden hours, including the validity of the methodology use and assumptions made;

(c) The quality, utility and clarity of the of the information to be collected; and

(d) Suggestions to reduce the burden including use of automated electronic, mechanical, or other forms of information technology.

The public is advised that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

Please submit your comments to the persons listed in the **ADDRESSES** section. Please note that all comments received will be available for public review two weeks after comment period closes. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so. We do not consider anonymous comments. All comments from representatives of businesses or organizations will be made public in their entirety.

OMB has up to 60 days to make a decision on the submission for renewal, but may make the decision after 30 days. Therefore, to receive the best consideration of your comments, you should submit them closer to 30 days than 60 days.

*OMB Approval Number:* 1076-0165.

*Title:* Application to Share in the Western Shoshone Funds as a Lineal

Descendant of the Western Shoshone Identifiable Group, 25 CFR Part 61.

*Brief Description of Collection:* The information collected is required for individuals to participate in the per capita distribution pursuant to the Act of July 7, 2004, Public Law 108-270. Subsection 3(b) of Public Law 108-270, requires the Secretary of the Interior to prepare a Western Shoshone judgment roll consisting of all individuals who— (a) have a least 1/4 degree of Western Shoshone blood; (b) are citizens of the United States; and (c) are living on July 7, 2004.

*Ineligible Individuals:* Any individual that is certified by the Secretary to be eligible to receive a per capita payment from any other judgment funds based on an aboriginal land claim awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before July 7, 2004, will not be listed on the judgment roll.

*Type of Review:* Renewal.

*Respondents:* Individual Indians able to prove lineal descendency of the Western Shoshone Identifiable group pursuant to the Act of July 7, 2004, Public Law 108-270.

*Number of Respondents:* We have received approximately 7,000 applications since the application period opened in April 2007. We expect to receive an additional 6,000 applications over a three-year period.

*Estimated Time per Response:* The burden of preparing and submitting an application to share in the judgment funds distribution will vary widely, depending upon the applicant's age and family history. The time will vary from 1 hour for older individuals to 20 hours for younger or non enrolled individuals. We are using 11 hours as an average per individual response.

*Frequency of Response:* Each applicant will be required to file only once.

*Total Annual Burden to Respondents:* 2,000 requests per year at 11 hours per response, for a total reporting and record keeping annual burden of 22,000 hours.

*Additional Costs per Application:* An average cost of \$23.75 per applicant for document reproduction with a total annual burden of \$47,500.

Dated: May 28, 2008.

**Sanjeev "Sonny" Bhagowalia,**

*Chief Information Officer—Indian Affairs.*

[FR Doc. E8-12404 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-4J-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NM-910-08-0777-XX]

#### Notice of Public Meeting, New Mexico Resource Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management, New Mexico Resource Advisory Council (RAC), will meet as indicated below.

**DATES:** The meeting dates are June 11-12, 2008, at the Socorro Field Office, 901 So. Highway 85, Socorro, NM. The public comment period is scheduled June 10, from 6-7 p.m. at the Socorro Field Office. On Wednesday, June 11, the meeting is scheduled from 8 a.m. to 5 p.m., and on Thursday, June 12, the meeting is scheduled from 8 a.m. to 12 noon. The public may present written comments to the RAC. Depending on the number of individuals wishing to comment and time available, oral comments may be limited.

**SUPPLEMENTARY INFORMATION:** The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in New Mexico. All meetings are open to the public. At this meeting, topics include issues on renewable and nonrenewable resources.

**FOR FURTHER INFORMATION CONTACT:** Theresa Herrera, New Mexico State Office, Office of External Affairs, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502-0115, 505.438.7517.

**Linda S.C. Rundell,**

*State Director.*

[FR Doc. E8-12565 Filed 6-4-08; 8:45 am]

**BILLING CODE 4310-FB-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[UTU 6443, UTU 012532, and UTU 0146037]

#### Public Land Order No. 7708; Partial Revocation of Public Land Order Nos. 1391, 4060, 4567, and Revocation of Public Land Order No. 4664; Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order partially revokes 3 Public Land Orders and revokes 1 Public Land Order in its entirety insofar as they affect approximately 427 acres of National Forest System lands withdrawn for use by the Forest Service as administrative sites, campgrounds, and other public purposes.

**EFFECTIVE DATE:** June 4, 2008.

**FOR FURTHER INFORMATION CONTACT:** Rhonda Flynn, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101-1345, 801-539-4132.

**SUPPLEMENTARY INFORMATION:** The Forest Service has determined that these lands no longer need to be withdrawn and has requested the revocation. The lands will not be opened to surface entry or mining until completion of an analysis to determine if any of the lands need special designation.

#### Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Public Land Order No. 1391 (22 FR 1003 (1957)), which withdrew public lands within the Manti-LaSal and Uinta National Forests from surface entry and mining and reserved them for use of the Forest Service for administrative sites, is hereby revoked insofar as it affects the following described lands:

#### Uinta National Forest

##### Uinta Special Meridian

a. *Currant Creek Administrative Site*

T. 1 S., R. 11 W.,

Sec. 23, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 26, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

b. *West Fork Administrative Site*

T. 1 N., R/ 11 W.,

Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 32, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

The areas described aggregate 140 acres in Wasatch County.

2. Public Land Order No. 4060 (31 FR 10033 (1966)), which withdrew National Forest System lands from mining for protection of the North Fork of the American Fork Canyon Watershed, is hereby revoked insofar as it affects the following described lands:

#### Uinta National Forest

##### Salt Lake Meridian

T. 4 S., R. 2 E.,

Sec. 1, all lands West of the 7,600 foot elevation contour in lots 1 and 8 (lands inside the Lone Peak Wilderness).

The areas described aggregate approximately 47 acres in Utah County.

3. Public Land Order No. 4567 (34 FR 1139 (1969)), which withdrew National Forest System lands from mining in aid of programs of the Department of Agriculture, is hereby revoked insofar as it affects the following described lands:

#### Uinta National Forest

##### Salt Lake Meridian

###### a. Ballard Canyon Campground

T. 3 S., R. 12 W.,

Sec. 23, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , and NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ .

###### b. Hawthorne Campground

T. 8 S., R. 5 E.,

Sec. 11, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

###### c. Kolob Campground

T. 7 S., R. 4 E.,

Sec. 24, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ .

###### d. McCune Canyon Ponderosa Pine Plantation

T. 12 S., R. 2 E.,

Sec. 20, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , and SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

###### e. Payson Ponderosa Pine Plantation Administrative Site

T. 10 S., R. 2 E.,

Sec. 3, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The areas described aggregate 230 acres in Utah and Wasatch Counties.

4. Public Land Order No. 4664 (34 FR 8915 (1969)), which withdrew National Forest System lands from mining in aid of programs of the Department of Agriculture, is hereby revoked in its entirety as it affects the following described lands:

#### Uinta National Forest

##### Salt Lake Meridian

###### Hawthorne Campground (addition)

T. 8 S., R. 5 E.,

Sec. 11, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The area described contains 10 acres in Utah County.

Dated: May 15, 2008.

#### C. Stephen Allred,

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. E8-12424 Filed 6-3-08; 8:45 am]

BILLING CODE 3410-11-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NMMN 46830 and NMMN 46837]

#### Public Land Order No. 7709; Revocation of Two Secretarial Orders Dated January 30, 1907 and December 17, 1907; New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes two Secretarial Orders in their entireties, as they affect approximately 278 acres of National Forest System lands withdrawn for use by the Forest Service for a tree nursery and an administrative site. This order opens 120 acres to such forms of disposition as may by law be made of National Forest System lands and to mining. The remaining lands are located within an overlapping withdrawal.

**DATES:** *Effective Date:* July 7, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Gilda Fitzpatrick, BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico 87502, 505-438-7597.

**SUPPLEMENTARY INFORMATION:** The Forest Service has determined that the withdrawals are no longer needed and has requested the revocation. The lands withdrawn by the Secretarial Order dated January 30, 1907 are located within an overlapping military withdrawal in connection with Fort Bayard so the revocation for those lands is considered a record-clearing action only.

#### Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The Secretarial Order dated January 30, 1907, which withdrew lands within the Gila National Forest and reserved them for use of the Forest Service for nursery purposes, is hereby revoked in its entirety as it affects the following described lands:

T. 17 S., R. 13 W.,

Sec. 11, lot 1 and E $\frac{1}{2}$ NE $\frac{1}{4}$ ;

Sec. 12, lots 3 and 4.

The area described contains 158 acres in Grant County.

2. The Secretarial Order dated December 17, 1907, which withdrew lands within the Gila National Forest and reserved them for use by the Forest Service as an administrative site, is hereby revoked in its entirety as it affects the following described lands:

T. 5 S., R. 17 W.,

Sec. 28, E $\frac{1}{2}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

The area described contains 120 acres in Catron County.

3. At 10 a.m. on July 7, 2008, the lands described in Paragraph 2 of this order shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 15, 2008.

#### C. Stephen Allred,

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. E8-12472 Filed 6-3-08; 8:45 am]

BILLING CODE 3410-11-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[UTU 42912 and UTU 42923]

#### Public Land Order No. 7707; Revocation of Two Withdrawal Orders for Provo River Reclamation Project; Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a Bureau of Reclamation Order and a Secretarial Order in their entireties as they affect 60 acres of National Forest System lands in Salt Lake and Wasatch Counties withdrawn from surface entry and mining and reserved on behalf of the Bureau of Reclamation for the Provo River Project. The lands are no longer needed for reclamation purposes. This order opens the lands to such forms of disposition as may by law be made of National Forest System lands and to mining.

**DATES:** *Effective Date:* July 7, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Rhonda Flynn, Bureau of Land Management Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101-1345, 801-539-4132.

**SUPPLEMENTARY INFORMATION:** The lands are no longer needed for reclamation purposes and the Bureau of Reclamation has requested revocation of the withdrawals. A copy of the pertinent withdrawal orders containing a complete legal description of the lands involved is available from the Bureau of Land Management Utah State Office at the address above.

**Order**

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The Bureau of Reclamation Order dated August 8, 1947 (12 FR 6095 (1947)), and the Secretarial Order dated January 29, 1937, which originally withdrew approximately 60 acres of lands from surface entry and mining and reserved them on behalf of the Bureau of Reclamation for the Provo River Project, are hereby revoked in their entireties.

2. At 10 a.m. on July 7, 2008, the lands referenced in this order shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 15, 2008.

**C. Stephen Allred,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. E8-12420 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-MN-P**

**DEPARTMENT OF THE INTERIOR****National Park Service****Notice To Terminate the Environmental Impact Statement (EIS) Process for the Special Resource Study (SRS) for Virginia Key Beach Park (VKBP), Biscayne Bay, FL**

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and National Park Service (NPS) policy in Director's Order 2 (Park Planning) and Director's Order 12 (Conservation Planning, Environmental Impact Analysis, and Decision-making), the NPS is terminating the EIS process for the SRS for VKBP, Biscayne Bay, Florida. The SRS does not find VKBP to be nationally significant or suitable for inclusion in the National Park System and does not require direct NPS management as defined in the NPS Management Policies, 2006. Therefore, inclusion of VKBP in the National Park System is not recommended. Since the SRS is not proposing Federal management of the site, the EIS process is being terminated.

The NPS will conduct local public meetings to inform and receive input from interested parties on the outcome of the SRS. Prior to the meetings a summary newsletter will be distributed. Following the meetings a draft report will be made available for public review.

**DATES:** The dates and times of the public meetings will be published in local newspapers and on the internet at <http://parkplanning.nps.gov>. These dates and times may also be obtained by contacting the NPS Southeast Regional Office, Planning and Compliance Division. The NPS anticipates that a draft report will be available for the public in July 2008.

**ADDRESSES:** The locations of the public meetings will be published in local newspapers and on the internet at <http://parkplanning.nps.gov>.

Comments should be submitted in writing to the following address: Amy Wirsching, Planning Team Leader, Virginia Key Beach Park Special Resource Study, NPS, Southeast Region, Planning and Compliance Division, 100 Alabama Street, SW., 6th Floor, 1924 Building, Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Amy Wirsching, Planning Team Leader, Virginia Key Beach Park Special Resource Study, 404-562-3124, extension 607.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** Notice of May 13, 2005 (70 FR 25598), the NPS notified

interested parties it was preparing an EIS for the SRS for VKBP, Biscayne Bay, Florida. Since that time VKBP has been evaluated to determine if it should be considered for inclusion in the National Park System. The four required criteria are: national significance, suitability, feasibility, and the requirement of direct NPS management. Based on the information that follows, the SRS does not find VKBP to be nationally significant or suitable for inclusion in the National Park System and does not require direct NPS management as defined in the *NPS Management Policies, 2006*. Therefore, inclusion of VKBP in the National Park System is not recommended. Since the SRS is not proposing Federal management of the site, the EIS process is being terminated.

**National Significance:** Based upon the opinion of the National Historic Landmarks (NHL) Program and an analysis of the NHL criteria for national significance, the preliminary determination does not find VKBP to be nationally significant as defined in the *NPS Management Policies, 2006*. The site did not represent a major event or turning point in the national struggle for civil rights, and is not associated importantly with persons nationally significant in the history of the Civil Rights Movement.

**Suitability:** In assessing a comparison of VKBP to other NPS, State, and local properties, it is apparent that resources similar to those of VKBP are adequately represented by other public entities. In addition, VKBP does not meet the requirements to be categorized in an appropriate NHL theme study. Therefore, VKBP does not meet the criteria to be considered suitable for addition to the National Park System.

**Feasibility:** Apart from potential NPS operational and development costs, the VKBP site appears to be feasible for inclusion in the National Park System.

**Direct NPS Management:** The fourth SRS criterion requires direct NPS management instead of protection by other public agencies or the private sector. Based on the amount of current interest to protect and interpret the site by the city of Miami and the current site manager, the VKBP Trust, the determination is that the site does not require direct NPS management for its protection.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so.

**Authority:** The authority for publishing this notice is contained in 40 CFR 1506.6.

The responsible official is Paul R. Anderson, Acting Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: April 1, 2008.

**Paul R. Anderson,**

*Acting Regional Director, Southeast Region.*

[FR Doc. E8-12467 Filed 6-3-08; 8:45 am]

**BILLING CODE 4310-MC-P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

[OMB Number 1121-0240]

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 60-Day Notice of Information Collection Under Review: 2008 Census of State and Local Law Enforcement Agencies.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until August 4, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Brian Reaves, (202) 616-3287, Bureau of Justice Statistics, Office of Justice Programs, Department of Justice, 810 Seventh Street, NW., Washington, DC 20531 or [Brian.Reaves@usdoj.gov](mailto:Brian.Reaves@usdoj.gov).

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information

(1) *Type of Information Collection:* Revision of a Currently Approved Collection, Census of State and Local Law Enforcement Agencies.

(2) *The Title of the Form/Collection:* 2008 Census of State and Local Law Enforcement Agencies.

(3) *The Agency Form Number, and the Applicable Component of the Department Sponsoring the Collection:* The form numbers are CJ-38L and CJ-38S, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected Public Who Will be Asked or Required To Respond, as well as a Brief Abstract:* All State and local law enforcement agencies with at least 1 full-time or part-time sworn officer. This nationwide information collection will identify all State and local law enforcement agencies, their number of sworn and civilian employees, and the functions they perform. Additional information pertaining to issues of recruiting, hiring and retention will be gathered from a sample of agencies. The information collected will provide national counts of law enforcement employees, track national growth trends in law enforcement and identify agencies with recruitment and retention problems. Agencies with successful recruitment and retention records can be compared with those dealing with staff shortages to determine ways in which the recruitment and retention of sworn personnel can be improved in those agencies.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond:* An estimated 15,775 law enforcement agencies will complete 30-minute questionnaire (CJ-38S), and 3,225 agencies will complete a 90-minute questionnaire (CJ-38L).

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* The estimated public burden associated with this collection is 12,725 hours. (15,775 data collection forms completed at 30 minutes = 7,888 burden hours and 3,255 forms completed at 90 minutes each = 4,837 burden hours.)

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: May 30, 2008.

**Ms. Lynn Bryant,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. E8-12480 Filed 6-3-08; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF JUSTICE

### National Institute of Corrections

#### Solicitation for a Cooperative Agreement: Document: A Guide To Planning Jail Programs

**AGENCY:** National Institute of Corrections, Department of Justice.

**ACTION:** Solicitation for a Cooperative Agreement.

**SUMMARY:** The National Institute of Corrections, Jails Division, is seeking applications for the development of a document that provides jail staff with a guide on developing and implementing programs for jail inmates.

**DATES:** Applications must be received by 4 p.m., Friday, July 11, 2008.

**ADDRESSES:** Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, dial 7-3106, ext. 0 for pickup. Faxed or e-mailed applications will not be accepted. Electronic applications can be submitted via <http://www.grants.gov>.

**FOR FURTHER INFORMATION CONTACT:** A copy of this announcement and the required application forms can be downloaded from the NIC Web page at <http://www.nic.gov>. Hard copies of the announcement can be obtained by calling Rita Rippetoe at 1-800-995-6423 ext. 44222 or e-mail [rrippetoe@bop.gov](mailto:rrippetoe@bop.gov).

All technical or programmatic questions concerning this announcement should be directed to Robbye Braxton-Mintz, Correctional Program Specialist, National Institute of Corrections, Jails Division. Ms. Mintz can be reached on 1-800-995-6423 ext. 44562 or by e-mail at [rbraxtonmintz@bop.gov](mailto:rbraxtonmintz@bop.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The National Institute of Corrections (NIC) has identified six key elements in the effective management of inmate behavior in jails:

Assessing the risks and needs of each inmate at various points during his/her detention;

Assigning inmates to appropriate housing;

Meeting inmates' basic needs;

Defining and conveying expectations for inmate behavior;

Supervising inmates;

Keeping inmates productively occupied.

If a jail fully and properly implements all six elements, it should experience a significant reduction in the negative inmate behavior often experienced in jails, such as vandalism, violence, rule violations, and disrespectful behavior toward staff and other inmates.

The NIC Jails Division offers training and technical assistance on inmate behavior management, but wishes to develop additional tools that will help jails implement the individual elements. This project focuses on keeping inmates productively occupied through the development of a document that provides specific guidance on the development of implementation of inmate activities and programs in jails.

*Objectives:* The National Institute of Corrections wishes to produce a document that provides jail administrators and staff guidance on how to develop and implement inmate programs, as part of the overall inmate behavior management strategy.

*Statement of Work:* General Information.

*Document Length:* The number of pages in the body is to be determined. The document will include appendices and a bibliography.

*Document Audience:* Jail administrators, program management staff, and line correctional staff. This guide is intended for the use by jails of all sizes.

*Use of Document:* The document will be a practical guide for the development and implementation of programs in a jail setting.

*Document Distribution:* NIC expects to distribute the document widely. It will be made available on the NIC Web

site and through the NIC Information Center, upon request and free of charge.

*Document Content:* The document will be a clear and practical guide for jail practitioners on developing, implementing, and evaluating inmate activities and programs in jails. It must account for diversity among jails, in terms of size and resources available.

The document will cover the following, at a minimum:

The benefits of implementing inmate activities and programs in jails related to reducing idle time and negative behavior. The document must cite the available evidence of the relationship between inmate activities and programs and the reduction of negative inmate behavior. This will involve identifying research on this topic and contact with a variety of jails to obtain information on their experience. In some cases, studies may be available. In other cases, only anecdotal evidence may be given. The author will identify, review, and cite both types of evidence.

The role of jail administration and management staff in providing leadership and support for reducing negative inmate behavior through implementation of activities and programs. The author will stress the importance of the jail administrator's demonstrated commitment to this and provide concrete examples of how the administrator can actively demonstrate commitment.

An overview of the range and variety of inmate activities and programs in terms of level of complexity, level of funding required, and types of staff (jail staff, volunteers, non-jail personnel) necessary. This discussion should stress that some level of programs can be implemented in any jail, regardless of size or resource levels, and the document should clearly illustrate this through examples.

Barriers to planning and implementing activities and programs, such as those related to resources, space, equipment, staff support, administrative commitment, and others. The document will also provide suggestions for overcoming barriers, with examples from jails that have experienced this.

Planning for activities and programs, including setting goals, designing activities and programs to achieve goals, and identifying resources needed for program implementation. The document will describe the use of data collection and analysis in determining the need for a given activity or program and setting goals.

Activity and program implementation, with related documentation needed.

Evaluation (assessing both the quality of implementation and success in achieving goals). The document will describe the data collection and analysis necessary for evaluation, and it will describe evaluation processes.

Revision of activities and programs based on evaluation.

*Project Description:* The awardee will produce a completed document that has received initial editing from a professional editor. NIC will be responsible for the final editing process and document design, but the awardee will remain available during this time to answer questions and to make revisions to the document.

*Project Schedule:* The list below shows the major activities required to complete the project. Document development will begin upon award of this agreement and must be completed 12 months after the award date. The schedule for completion of activities should include, at a minimum, the following activities. The awardee will—

Meet with NIC project manager for an overview of the project and initial planning;

Review materials provided by NIC;

Complete the initial outline of document content and layout;

Meet with NIC project manager to review, discuss and agree on content outline;

Research content topics and related resources;

Submit draft sections of document to NIC for review;

Revise draft sections for NIC's approval;

Submit document to editor hired by awardee for first content edit;

Submit a draft of entire document to NIC for review;

Revise document for NIC's approval and

Submit document to NIC in hard copy and on disk in Microsoft Word format.

Throughout the project period, the awardee should make provision for meetings with NIC staff, to be held in Washington, DC, at critical planning and review points in document development.

*Authority:* Public Law 93-415.

*Funds Available:* NIC is seeking the applicants' best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. The final budget and award amount will be negotiated between NIC and the successful applicant. Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments.

**Eligibility of Applicants:** Applications are solicited from any state or general unit of local government, private agency, educational institution, organization, individual or team with expertise in the described areas. Applicants must have a demonstrated ability to implement a project of this size and scope.

**Applicant's Conference:** An applicant's conference will be held on Friday, June 27, 2008 from 1 p.m. to 3 p.m. (EDT) at the NIC office, 500 1st Street, NW., Washington, DC, 7th Floor. The conference will give applicants the opportunity to meet NIC project staff and ask questions about the project and application procedures. Attendance at the conference is optional. Provisions will be made using WebEx technology (telephone and computer-based conferencing) for those unable to attend in person. The WebEx session requires applicants to have access to a telephone and computer. Applicants who plan to attend or participate via WebEx should call Robbye Braxton-Mintz, NIC Jails Division, Correctional Program Specialist, at (800) 995-6423 x 44562 by Monday, June 23, 2008 to confirm attendance or receive instructions for WebEx.

**Application Requirements:** An application package must include OMB Standard Form 424, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); and an outline of projected costs. The following additional forms must also be included: OMB Standard Form 424A, Budget Information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (both available at <http://www.grants.gov>) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at <http://www.nicic.gov/Downloads/PDF/certif-fm.pdf>).

Applications should be concisely written, typed double spaced and reference the NIC Application Number and Title provided in this announcement.

Submit an original and three copies of your full proposal (program and budget narrative, application forms and assurances). The original should have the applicant's signature in blue ink. As previously stated, electronic submissions will only be accepted via <http://www.grants.gov>.

The narrative portion of the application should include, at a minimum a:

Brief paragraph indicating the applicants understanding of the purpose of the document and the issues to be addressed;

Brief paragraph that summarizes the project goals and objectives;

Clear description of the methodology that will be used to complete the project and achieve its goals;

Statement or chart of measurable project milestones and time lines for the completion of each milestone;

Description of the qualifications of the applicant organization and a resume for the principal and each staff member assigned to the project that documents relevant knowledge, skills and ability to carry out the project;

Minimum of three references for which the applicant has provided a similar service;

Budget that details all costs for the project, shows consideration for all contingencies for this project, and notes a commitment to work within the proposed budget and

Sample of a least one document completed by the applicant.

The applicant must specify its role in the production of the sample document(s).

**Review Considerations:** Applications will be reviewed by a team of NIC staff. Among the criteria used to evaluate the applications are:

Indication of a clear understanding of the project requirements;

Background, experience, and expertise of the proposed project staff, including any sub-contractors;

Effectiveness of the creative approach to the project;

Clear, concise description of all elements and tasks of the project, with sufficient and realistic time frames necessary to complete the tasks;

Technical soundness of project design and methodology;

Financial and administrative integrity of the proposal, including adherence to federal financial guidelines and processes;

A sufficiently detailed budget that shows consideration of all contingencies for this project and commitment to work within the budget proposed and

Indication of availability to meet with NIC staff.

**Number of Awards:** One.

**NIC Application Number:** 08J64.

**Catalog of Federal Domestic Assistance Number:** 16.601.

**Executive Order 12372:** This project is not subject to the provisions of Executive Order 12372.

**Morris L. Thigpen,**

*Director, National Institute of Corrections.*

[FR Doc. E8-12455 Filed 6-3-08; 8:45 am]

**BILLING CODE 4410-36-P**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

May 29, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number) / e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316 / Fax: 202-395-6974 (these are not toll-free numbers), e-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) within 30 days from the date of this publication in the **Federal Register**.

In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Occupational Safety and Health Administration.

*Type of Review:* Extension without change of a previously approved collection.

*Title of Collection:* Subpart A (General Provisions) and Subpart B (Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment) (29 CFR part 1915).

*OMB Control Number:* 1218-0011.

*Agency Form Number:* None.

*Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions.

*Estimated Number of Respondents:* 639.

*Estimated Total Annual Burden Hours:* 312,774.

*Estimated Total Annual Costs Burden:* \$0.

*Description:* The information collection requirements contained in 29 CFR part 1915, Subparts A and B serve to ensure that shipyard personnel do not enter confined spaces that contain oxygen deficient, toxic or flammable atmospheres. For additional information, see related notice published at 73 FR 8713 on February 14, 2008.

*Agency:* Occupational Safety and Health Administration.

*Type of Review:* Extension without change of a previously approved collection.

*Title of Collection:* Powered Industrial Trucks (29 CFR 1910.178).

*OMB Control Number:* 1218-0242.

*Agency Form Number:* None.

*Affected Public:* Private Sector—Business or other for-profits.

*Estimated Number of Respondents:* 1,134,699.

*Estimated Total Annual Burden Hours:* 854,538.

*Estimated Total Annual Costs Burden:* \$238,245.

*Description:* 29 CFR 1910.178 contains several information collection requirements addressing truck design, construction, and modification, as well as certification of training and evaluation for truck operators. For additional information, see related

notice published at 73 FR 12468 on March 7, 2008.

**Darrin A. King,**

*Acting Departmental Clearance Officer.*

[FR Doc. E8-12342 Filed 6-3-08; 8:45 am]

**BILLING CODE 4510-26-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-62,052]

#### **Freescale Semiconductor, Inc., New Product Introduction (NPI), Tempe, AZ; Notice of Negative Determination on Reconsideration**

On January 3, 2008, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Freescale Semiconductor, Inc., New Product Introduction (NPI), Tempe, Arizona (the subject firm). The Department's Notice was published in the **Federal Register** on January 10, 2008 (73 FR 1896).

The negative determination was based on the Department's findings that the workers at the subject firm are engaged in activities related to the production of Gallium Arsenide (GaAs) semiconductors for the purposes of the design and development of new automotive and cellular technologies; the subject firm did not shift to a foreign country activities related to the design or the manufacturing of GaAs semiconductors; the subject firm did not import articles either like or directly competitive with GaAs semiconductors produced by the subject firm; the workers are not eligible to apply for TAA as secondary workers; and the workers' separation was due to a shift to another domestic facility.

The request for reconsideration alleged that a shift of activities to foreign countries caused the workers' separations. The request stated that GaAs-related activity "does not apply to the NPI department at all" and that "Freescale Compound Semiconductor (CS1) does produce Gallium Arsenide (GaAs) wafers, but that is not an intrinsic part of the NPI function." The implication is that there are two separate groups of workers at the subject firm—one that produces GaAs wafers and one that is engaged in activity not related to GaAs wafers. The request also states that "Freescale's major customer \* \* \* did receive product from NPI" and that the customer is a TAA-certified company. The request implies that NPI

workers are eligible to apply for TAA on a secondary basis.

Information submitted by the subject firm during the initial and reconsideration information revealed that the subject firm had two separate operations: (1) CS1 Factory workers produced GaAs wafers and (2) NPI workers tested and corrected programs and package assembly processes in preparation of mass semiconductor chip assembly that would take place in foreign facilities.

Based on the above information, the Department determines that the subject group includes NPI workers engaged in pre-production testing of semiconductor chips and does not include workers of CS1 Factory producing GaAs-based wafers.

19 U.S.C. section 2272 establishes that a certification of eligibility to apply for TAA, applicable to the subject worker group, shall be issued if:

(1) A significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) Sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) Increases (absolute or relative) of imports of articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production, or

(4) There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States, is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act or there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Because the subject workers were engaged in pre-production research and development programs and assembly processes that would take place at foreign production facilities, the Department determines that the subject workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974. It follows, that, since the workers did not produce an article, they could not have been adversely affected by a shift of production or increased imports of like or directly competitive articles.

Further, the reconsideration investigation revealed that the

predominant reason for the workers' separations is the shift of pre-production activities to Asia and Malaysia. The Department has consistently held that a shift of non-production activities cannot be a basis for certification.

In order to receive a secondary certification, a significant number or proportion of workers in the subject firm have been, or are threatened to become, totally or partially separated and that the subject firm is a supplier or downstream producer (finisher or assembler) to a firm that employed a group of workers who received a TAA certification, and such supply or production is related to the article that was the basis for such certification.

In addition, if the subject firm is a supplier to a TAA-certified company, either the component parts supplied to that company must account for at least 20 percent of the subject firm's sales or production, or a loss of business by the subject firm with the TAA-certified firm contributed importantly to the petitioning workers' separations or threat of separation; and, if the subject firm is a downstream producer, the TAA certification of the primary firm must be based on a shift of production to Canada or Mexico or import impact from Canada or Mexico and a loss of business by the subject firm with the TAA-certified firm contributed importantly to the petitioning workers' separations or threat of separation.

Even if NPI workers developed test codes for a semiconductor chip that was produced and sold to a TAA-certified customer, the pre-production research and development work does not constitute production, and the workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974. As such, the subject workers are not eligible under secondary impact.

### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 29th day of May 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-12390 Filed 6-3-08; 8:45 am]

BILLING CODE 4510-FN-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-62,964]

#### G-III Apparel Group, Starlo Dresses Division, Computer Patterns Team, New York, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application dated April 22, 2008, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on March 24, 2008 and published in the **Federal Register** on April 11, 2008 (73 FR 19900).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination signed on March 24, 2008 was based on the finding that imports of electronically marked and graded patterns did not contribute importantly to worker separations at the subject plant and there was no shift of production to a country that is a party to a free trade agreement with the United States or a beneficiary country. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's declining domestic customers. In this instance, the subject firm did not sell electronically marked and graded patterns to outside domestic customers, thus a survey was not conducted. The subject firm did not import electronically marked and graded patterns into the United States during the relevant period.

In the request for reconsideration the petitioner refers to the events which have occurred at the subject facility since 1998.

When assessing eligibility for TAA, the Department exclusively considers import impact during the relevant time period (one year prior to the date of the petition). Events occurring prior to

February 19, 2007 are outside of the relevant time period and thus cannot be considered in this investigation.

The petitioner also alleges that the statement in the initial investigation " \* \* \* the patterns were used exclusively in China \* \* \*" is erroneous and that some patterns were manufactured for a domestic market. To support this allegation, the petitioner provided the name of a domestic retail company, which allegedly purchased products from the subject firm in the relevant time period.

The Department contacted a company official to address these allegations. The company official stated that G-III Apparel Group, Starlo Dresses Division, Computer Patterns Team, New York, New York does not sell any electronically marked and graded patterns to the retailers or any other companies. All patterns are the property of the subject firm and are used in the in-house factories to create dresses. The company official also clarified that the customer mentioned by the petitioner is a retailer who buys dresses from the subject firm and not electronically marked and graded patterns.

The petitioner stated that jobs were shifted from the subject facility to China.

The investigation confirmed that production of electronically marked and graded patterns indeed was shifted to China. However, the investigation also revealed that the subject firm did not import electronically marked and graded patterns from China back into the United States during the relevant period.

The petitioner further stated that workers of the subject firm were previously employed at other companies, which were certified for TAA.

The two companies indicated by the petitioner were certified eligible for TAA in August 2001 and April 2007 since the companies increased imports of samples of dresses, and wedding and bridesmaid gowns. The certifications of these companies are not relevant to this investigation.

### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 29th day of May, 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-12389 Filed 6-3-08; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-62,858]

#### Household Utilities, Inc., Kiel, WI; Notice of Revised Determination on Reconsideration

On April 17, 2008, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on April 23, 2008 (73 FR 21988).

The previous investigation initiated on February 15, 2008, resulted in a negative determination issued on March 5, 2008, was based on the finding that sales and production of industrial parts, medical carts and medical cabinets increased in 2007 as compared to 2006 and no shift in production to a foreign source occurred. The denial notice was published in the **Federal Register** on March 21, 2008 (73 FR 15218).

In the request for reconsideration, the petitioner alleged that sales and production decreased in 2008 and customers of the subject firm shifted production abroad.

The Department requested from the subject firm sales and production information for January and February 2008. New information revealed that sales and production of industrial parts, medical carts and medical cabinets decreased in January and February 2008 when compared with the same period in 2007.

Upon further investigation it has also been determined that Household Utilities, Inc., Kiel, Wisconsin, supplied industrial parts for marine outboard motors and plastic molded parts, and at least 20 percent of its production or sales is supplied to a manufacturer whose workers were certified eligible to apply for adjustment assistance. The parts supplied were related to the article that was the basis of certification.

In accordance with Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade

adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

#### Conclusion

After careful review of the additional facts obtained on reconsideration, I determine that workers of Household Utilities, Inc., Kiel, Wisconsin, qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Household Utilities, Inc., Kiel, Wisconsin, who became totally or partially separated from employment on or after February 13, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 29th day of May 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-12391 Filed 6-3-08; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment Standards Administration

#### Proposed Extension of the Approval of Information Collection Requirements

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly

understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Payment of Compensation Without Award (LS-206). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 4, 2008.

**ADDRESSES:** Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0418, fax (202) 693-1451, e-mail [bell.hazel@dol.gov](mailto:bell.hazel@dol.gov). Please use only one method of transmission for comments (mail, fax, or e-mail).

#### SUPPLEMENTARY INFORMATION: I.

*Background:* The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA). The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in adjoining areas customarily used by an employer in loading, unloading, repairing or building a vessel. Under sections 914(b) and (c) of the Longshore Act, a self-insured employer or insurance carrier is required to pay compensation within 14 days after the employer has knowledge of the injury or death. Upon making the first payment, the employer or carrier shall immediately notify the district director of payment. Form LS-206 has been designated as the proper form on which report of first payment is to be made. The LS-206 is also used by OWCP district offices to determine the payment status of a given case. This information collection is currently approved for use through December 31, 2008.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. *Current Actions*: The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to meet the statutory requirements to provide compensation or death benefits under the Act to workers covered under the Act.

*Type of Review*: Extension.

*Agency*: Employment Standards Administration.

*Titles*: Payment of Compensation Without Award.

*OMB Number*: 1215-0022.

*Agency Numbers*: LS-206.

*Affected Public*: Business or other for-profit.

*Total Respondents*: 600.

*Total Annual Responses*: 21,000.

*Estimated Total Burden Hours*: 5,250.

*Estimated Time per Response*: 15 minutes.

*Frequency*: On occasion.

*Total Burden Cost (capital/startup)*: \$0.

*Total Burden Cost (operating/maintenance)*: \$10,395.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 29, 2008.

**Hazel M. Bell,**

*Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

[FR Doc. E8-12334 Filed 6-3-08; 8:45 am]

**BILLING CODE 4510-CF-P**

## DEPARTMENT OF LABOR

### Employment Standards Administration

#### Proposed Revision of the Approval of Information Collection Requirements

**ACTION**: Notice.

**SUMMARY**: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation

program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Agreement and Undertaking (OWCP-1). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

**DATES**: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 4, 2008.

**ADDRESSES**: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0418, fax (202) 693-1451, e-mail [bell.hazel@dol.gov](mailto:bell.hazel@dol.gov). Please use only one method of transmission for comments (mail, fax, or e-mail).

#### **SUPPLEMENTARY INFORMATION: I.**

*Background*: Coal Mine operators desiring to be self-insurers are required by law (30 U.S.C. 933) to produce security in terms of an indemnity bond, security deposit, a letter of credit or 501(c)(21) trust. Once a company's application to become self-insured is reviewed by the Division of Coal Mine Workers; Compensation (DCMWC) and it is determined the company is potentially eligible, an amount of security is determined to guarantee the payment of benefits required by the Act. The OWCP-1 form is executed by the self-insurer who agrees to abide by the Department's rules and authorizes the Secretary, in the event of default, to file suit to secure payment from a bond underwriter or in the case of a Federal Reserve account, to sell the securities for the same purpose. A company cannot be authorized to self-insure until this requirement is met. Regulations establishing this requirement are at 20 CFR 726.110 for Black Lung. This information collection is currently approved for use through December 31, 2008.

II. *Review Focus*: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. *Current Actions*: The Department of Labor seeks the approval of the extension of this currently approved information collection in order to determine if a coal mine company is potentially eligible to become self-insured. The information is reviewed to insure that the correct amounts of negotiable securities are deposited or indemnity bond is purchased and that in a case of default OWCP has the authority to utilize the securities or bond. If this Agreement and Undertaking were not required, OWCP would not be empowered to utilize the company's security deposit to meet its financial responsibilities for the payment of black lung benefits in case of default.

*Type of Review*: Revision.

*Agency*: Employment Standards Administration.

*Titles*: Agreement of Undertaking.

*OMB Number*: 1215-0034.

*Agency Numbers*: OWCP-1.

*Affected Public*: Business or other for-profit.

*Total Respondents*: 20.

*Total Annual Responses*: 20.

*Estimated Total Burden Hours*: 5.

*Estimated Time per Response*: 15 minutes.

*Frequency*: On occasion.

*Total Burden Cost (capital/startup)*: \$0.

*Total Burden Cost (operating/maintenance)*: \$9.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 29, 2008.

**Hazel M. Bell,**

*Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning Employment Standards Administration.*

[FR Doc. E8-12335 Filed 6-3-08; 8:45 am]

**BILLING CODE 4510-CK-P**

## DEPARTMENT OF LABOR

### Employment Standards Administration

#### Proposed Extension of the Approval Information Collection Requirements

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Certificate of Medical Necessity (CM-893). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 4, 2008.

**ADDRESSES:** Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0418, fax (202) 693-1451, e-mail [bell.hazel@dol.gov](mailto:bell.hazel@dol.gov). Please use only one method of transmission for comments (mail, fax, or e-mail).

#### **SUPPLEMENTARY INFORMATION:**

*I. Background:* The Office of Workers' Compensation Programs administers the Federal Black Lung Workers' Compensation Program. The enabling regulations of the Black Lung Benefits Act, at 20 CFR 725.701, establishes miner eligibility for medical services and supplies for the length of time

required by the miner's condition and disability. 20 CFR 706 stipulates there must be prior approval before ordering an apparatus where the purchase price exceeds \$300.00. 20 CFR 725.707 provides for the ongoing supervision of the miner's medical care, including the necessity, character and sufficiency of care to be furnished; gives the authority to request medical reports and indicates the right to refuse payment for failing to submit any report required. Because of the above legislation and regulations, it was necessary to devise a form to collect the required information. The CM-893, Certificate of Medical Necessity is completed by the coal miner's doctor and is used by the Division of Coal Mine Worker's Compensation to determine if the miner meets impairment standards to qualify for durable medical equipment, home nursing, and/or pulmonary rehabilitation. This information collection is currently approved for use through December 31, 2008.

*II. Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*III. Current Actions:* The Department of Labor seeks the approval for the extension of this currently approved information collection in order to carry out its responsibility to determine the eligibility for reimbursement of medical benefits to Black Lung recipients.

*Type of Review:* Revision.

*Agency:* Employment Standards Administration.

*Title:* Certificate of Medical Necessity.

*OMB Number:* 1215-0113.

*Agency Number:* CM-893.

*Affected Public:* Individuals or households; Business or other for-profit, Not-for-profit institutions.

*Total Respondents:* 3,200.

*Total Annual Responses:* 3,200.

*Estimated Total Burden Hours:* 1,253.

*Time per Response:* 20 to 40 minutes.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 29, 2008.

**Hazel M. Bell,**

*Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

[FR Doc. E8-12336 Filed 6-3-08; 8:45 am]

**BILLING CODE 4510-CK-P**

## MERIT SYSTEMS PROTECTION BOARD

### Agency Information Collection Activities; Proposed Collection

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Notice.

**SUMMARY:** The U.S. Merit Systems Protection Board (MSPB) is requesting approval from the Office of Management and Budget (OMB) to conduct a new information collection activity. Before submitting the Information Collection Request (ICR) to OMB for review and approval, MSPB is soliciting comments on aspects of the proposed information collection including the public reporting burden in compliance with the Paperwork Reduction Act (PRA). In this regard we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this form is estimated to average 20 minutes per respondent, including time for reviewing instructions and completing the survey. In addition, the MSPB invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of MSPB's functions, including whether the information will have practical utility; (2) the accuracy of MSPB's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the

use of automated collection techniques or other forms of information technology.

**DATES:** Written comments must be received on or before August 4, 2008.

**ADDRESSES:** Submit written comments on the collection of information to Dr. Dee Ann Batten, Office of Policy and Evaluation, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Dr. Dee Ann Batten at (202) 653-6772, ext. 1411, or by e-mail to [deeann.batten@mspb.gov](mailto:deeann.batten@mspb.gov) (please put "Employee Survey" in the subject line of the message).

**SUPPLEMENTARY INFORMATION:** This study is being conducted under MSPB's statutory authority to "conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected." (section 1204, title 5 U.S.C.) In addition, the Code of Federal Regulations also describes the role of MSPB's Office of Policy and Evaluation as responsible for carrying out "the Board's statutory responsibility to conduct special reviews and studies of the civil service and other merit systems in the Executive Branch, as well as oversight reviews of the significant actions of the Office of Personnel Management." 5 CFR 1200.10(b)(6). The MSPB intends to ask for approval to collect information to support its study on Federal Telework. Respondents will be asked to complete a survey(s) about their experiences with and perceptions of Telework and other related topics about their organizations and careers.

*Burden Statement:* The reporting burden for the collection of information on this request is estimated to vary from 15 minutes to 30 minutes, with an average of 20 minutes, including time for reviewing instructions and completing and reviewing the collection of information. The respondents will be selected via stratified random sampling to facilitate representative samples of employees. We plan to survey 28,000 people with one response per person. We estimate the response rate to be 60 percent (16,800 total responses) resulting in an annual reporting burden of 5,544 hours (.33 hours × 16,800).

**William D. Spencer,**  
*Clerk of the Board.*

[FR Doc. E8-12380 Filed 6-3-08; 8:45 am]

BILLING CODE 7400-01-P

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95-541)

**AGENCY:** National Science Foundation.

**ACTION:** Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 7, 2008. This application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

**FOR FURTHER INFORMATION CONTACT:** Nadene G. Kennedy at the above address or (703) 292-7405.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

#### Permit Application No. 2009-006

1. *Applicant:* Wayne Z. Trivelpiece, Antarctic Ecosystem Research Division, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037

#### Activity for Which Permit Is Requested

Take, Enter Antarctic Specially Protected Area (ASP), and Import into the USA. The applicant plans to enter the ASPA located on the Western Shore of Admiralty Bay, King George Island (ASP 129), and Lions Rump, King

George Island (ASP 151) to capture up to 1,000 chicks and 500 adult Adelie, Gentoo, Chinstrap penguins, Skuas, Sheathbill, Southern Petrel and Kelp Gull for banding, weighing, diet studies, collecting blood and gland oil samples, as well as attaching instruments (Tx's, PTT's, TDR's). The collection of samples and instrument readings are a continuation of the study of the behavioral ecology and population biology of the Adelie, Gentoo and Chinstrap penguins and the interactions among these species and their principal avian predators: Skuas, sheathbills, and giant petrels. All captured animals will be released.

#### Location

Western Shore of Admiralty Bay, King George Island (ASP 128) and Lions Rump, King George Island (ASP 151).

#### Dates

October 1, 2008 to August 31, 2009.

**Nadene G. Kennedy,**

*Permit Officer, Office of Polar Programs.*

[FR Doc. E8-12409 Filed 6-3-08; 8:45 am]

BILLING CODE 7555-01-P

## NEIGHBORHOOD REINVESTMENT CORPORATION

### Neighborworks® America; Thirtieth Annual Board of Directors Meeting; Sunshine Act

**TIME AND DATE:** 2 p.m., Wednesday, June 4, 2008.

**PLACE:** 1325 G Street NW., Suite 800, Boardroom, Washington, DC 20005.

**STATUS:** Open.

#### CONTACT PERSON FOR MORE INFORMATION:

Erica Hall, Assistant Corporate Secretary, (202) 220-2376; [ehall@nw.org](mailto:ehall@nw.org).

#### AGENDA:

- I. Call To Order.
- II. Approval of the Minutes.
- III. Summary of the Audit Committee Actions.
- IV. Summary Report of the Corporate Administration Committee.
- V. Summary of the Finance, Budget and Program Committee Actions.
- VI. Edward M. Gramlich Fellowship in Community Development.
- VII. NHSA Interim Assessment Update (Executive Session).
- VIII. Financial Report.
- IX. Corporate Scorecard.
- X. Chief Executive Officer's Quarterly Management Report.

## XI. Adjournment.

Erica Hall,

*Assistant Corporate Secretary.*

[FR Doc. E8-12358 Filed 6-3-08; 8:45 am]

BILLING CODE 7570-02-M

**NUCLEAR REGULATORY COMMISSION****Progress Energy Carolinas, Inc., Shearon Harris Nuclear Power Plant, Units 2 and 3 Combined License Application Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process; Correction****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Notice of Intent; Correction.

**SUMMARY:** This document corrects a notice appearing in the **Federal Register** on May 22, 2008, (73 FR 29785) that notice of intent to prepare an environmental impact statement and conduct scoping process. This action is necessary to correct an erroneous date.

**FOR FURTHER INFORMATION CONTACT:** Please contact Dr. Donald Palmrose, Project Manager at (301) 415-3803 or via e-mail at [donald.palmrose@nrc.gov](mailto:donald.palmrose@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On page 29787, in the first column, in the first line of column, the date is changed from "July 18, 2008," to read "July 25, 2008."

Dated at Rockville, Maryland, this 23rd day of May, 2008.

For the Nuclear Regulatory Commission.

Nilesh C. Chokshi,

*Acting Director, Division of Site and Environmental Reviews, Office of New Reactors.*

[FR Doc. E8-12460 Filed 6-3-08; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY COMMISSION****[Docket No. 150-00017]****In the Matter of: Global X-Ray & Testing Corporation General License Pursuant to Houma, LA; 10 CFR 150.20, EA-08-008; EA-08-009; EA-08-010; EA-08-011; Confirmatory Order (Effective Immediately)****I**

Global X-Ray & Testing Corporation (Global or Licensee) is the holder of a general license pursuant to 10 CFR 150.20 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission). This general license was granted to Global at various times

during calendar years 2001 through 2008.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on April 29, 2008.

**II**

An NRC inspection was conducted in response to an event that occurred on April 20, 2006, involving the inability to retract a radiation source to its fully shielded position while conducting radiographic operations onboard a lay-barge in offshore Federal waters. The inspection began on March 13, 2007, and continued with in-office review through November 26, 2007. An investigation by the NRC's Office of Investigations (OI) was initiated on April 17, 2007. Based on the results of the NRC inspection and the OI investigation, the NRC identified four apparent violations which were discussed in a letter and inspection report dated February 20, 2008. The violations involved: (1) The failure to provide the NRC with complete and accurate information, as required by 10 CFR 30.9(a); (2) the failure to prevent workers from resuming work after their pocket dosimeters were found to be off-scale and the possibility of radiation exposure could not be ruled out as the cause, as required by 10 CFR 34.47(d); (3) the failure to ensure that a radiographer was providing personal supervision of the radiographer's assistant through direct observation of the assistant's performance of radiographic operations, as required by 10 CFR 34.46(c); and (4) permitting an individual who was not wearing a personnel dosimeter during radiographic operations to act as a radiographer, in contradiction of 10 CFR 34.47(a). In addition, the NRC was concerned that the first apparent violation, the failure to provide the NRC with complete and accurate information, involved willfulness.

In response to the apparent violations, Global requested ADR. On April 29, 2008, the NRC and Global met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. During the mediation, Global provided additional corrective actions including developing an emergency procedure for retrieval of radioactive sources, an incident investigation procedure, an incident interview policy, and informed

the NRC that it plans to conduct announced and unannounced inspections of its radiography crews working on lay-barges. This confirmatory order is issued pursuant to the agreement reached during the ADR process.

**III**

During that ADR session, an Agreement in Principle was reached. The elements of the agreement consisted of the following:

1. Global will develop a procedure for additional oversight of radiography crews working offshore. They will incorporate into this procedure a method for each crew to review the special requirements for offshore work with the Radiation Safety Officer (RSO) or a supervisor (who is a certified radiographer). The review is to be accomplished prior to leaving for an offshore job, then again when the crew arrives at their final destination where radiography will be performed to ensure that they have all the equipment necessary to conduct radiographic operations in a safe manner. Documentation of the second review is to be sent by fax or other available method to a supervisor or the RSO within 2 hours of completion, but no later than 8 hours in the event of documented communication interruptions.

2. Global will obtain an agreement with lay-barge operators. In general, this agreement would include provisions to conduct radiographic operations, respond to incidents, and facilitate direct Global management/RSO oversight of radiographers on the lay-barge.

3. Global will agree to specific changes or "confirmation and acknowledgment" of specific changes in Global's supervision policy (including supervision of assistant radiographers) which would include field audits of lay-barge radiographic operations by Global management. Global will make reasonable attempts to conduct a minimum of four field audits per year.

4. As part of Global's contract negotiations for lay-barge operations, Global will make arrangements for NRC inspection of Global's lay-barge operations on U.S. owned lay-barges. Global will make every effort possible to secure, for the NRC, such access to foreign owned lay-barges.

5. Global will write and deliver a personal letter from licensee management to each employee regarding company expectations concerning 10 CFR 30.9 issues or issue a company policy statement encouraging employees to self-report.

6. Global will develop and provide training regarding the potential consequences for violations of NRC regulations.

7. Global will obtain an NRC license with special license conditions for radiographic operations in offshore waters. The application process is to be started no later than September 1, 2008.

8. The NRC agrees not to pursue any further enforcement action in connection with NRC's Inspection Report 150-00017/07-007 to Global as a company, and will not count this matter as previous enforcement for the purposes of assessing potential future enforcement action civil penalty assessments in accordance with section VI.C of the Enforcement Policy. The resulting confirmatory order will, however, be considered by the NRC for any assessment of Global's performance, as appropriate.

9. In consideration of the comprehensiveness of the corrective actions in Items 1 through 7 above, and most notably in consideration of the costs associated with Item 7, the NRC will eliminate the civil monetary penalty.

10. All of the above conditions without a time limit will be accomplished within 120 days of the order.

On May 19, 2008, the Licensee consented to issuing this Order with the commitments, as described in section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

#### IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

#### V

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 20, 30, 34,

and 150, *it is hereby ordered, effective immediately, that:*

A. Global will develop a procedure for additional oversight of radiography crews working offshore. Global will incorporate into this procedure a method for each crew to review the special requirements for offshore work with the RSO or a supervisor (who is a certified radiographer). The review is to be accomplished prior to leaving for an offshore job, then again when the crew arrives at their final destination where radiography will be performed to ensure that they have all the equipment necessary to conduct radiographic operations in a safe manner. Documentation of the second review is to be sent by fax or other available method to a supervisor or the RSO within 2 hours of completion, but no later than 8 hours in the event of documented communication interruptions.

B. Prior to each operation, Global will obtain an agreement with lay-barge operators. In general, this agreement will include provisions to conduct radiographic operations, respond to incidents, and facilitate direct Global management/RSO oversight of radiographers on the lay-barge.

C. Global will agree to specific changes or the "confirmation and acknowledgment" of specific changes that Global has already made in its supervision policy (including supervision of assistant radiographers) which will include field audits of lay-barge radiographic operations by Global management. Global will make reasonable attempts to conduct a minimum of four field audits per year.

D. As part of Global's contract negotiations for lay-barge operations, Global will make arrangements for NRC inspection of Global's radiographic activities on U.S. owned lay-barges. Global will make every effort possible to secure, for the NRC, such access to foreign owned lay-barges.

E. Global will write and deliver a personal letter from licensee management to each employee regarding company expectations concerning 10 CFR 30.9 issues or issue a company policy statement encouraging employees to self-report.

F. Global will develop and provide training regarding the potential consequences for violations of NRC regulations.

G. Global will obtain an NRC license with special license conditions for radiographic operations in offshore waters (as defined in 10 CFR 150.3). The application process is to be started no later than September 1, 2008.

H. All of the above conditions without a specified time limit will be accomplished within 120 days of the order.

The Regional Administrator, U.S. NRC Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

#### VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for

a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

If a person other than Global requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

For the Nuclear Regulatory Commission.

Dated this 23rd day of May 2008.

**Arthur T. Howell,**

*Acting Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV.*

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**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-423]

### **Dominion Nuclear Connecticut, Inc.; Millstone Power Station, Unit 3; Draft Environmental Assessment and Finding of No Significant Impact Related to the Proposed License Amendment To Increase the Maximum Reactor Power Level**

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**SUMMARY:** The NRC has prepared a draft Environmental Assessment (EA) as its evaluation of a request by Dominion Nuclear Connecticut, Inc. (DNC or the licensee), for a license amendment to increase the maximum thermal power at the Millstone Power Station, Unit 3 (Millstone 3), from 3,411 megawatts thermal (MWT) to 3,650 MWT. The NRC staff did not identify any significant impact from the information provided in the licensee's stretch power uprate (SPU) application for Millstone 3 or from the NRC staff's independent review; therefore, the NRC staff is documenting its environmental review in a draft EA. The draft EA and Finding of No Significant Impact are being published in the **Federal Register** with a 30-day public comment period.

#### **Environmental Assessment**

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. NPF-49, issued to DNC for operation of Millstone 3, located in New London County, Connecticut. Therefore, as required by Title 10 of the *Code of Federal Regulations* (10 CFR) Section 51.21, the NRC is issuing this draft environmental assessment and finding of no significant impact.

#### **Plant Site and Environs**

Millstone 3 is located in the Town of Waterford, Connecticut, about 40 miles east of New Haven and 40 miles southeast of Hartford, Connecticut. Millstone 3 is located on Millstone Point between the Niantic and Thames Rivers. The site sits on the edge of the Long Island Sound and Niantic Bay and is approximately 20 miles west of Rhode Island.

The site is approximately 525 acres including the developed portion of the site, which is approximately 220 acres in size. In addition to Millstone 3, the site includes the shutdown Millstone Power Station, Unit 1 reactor and the operating Millstone Power Station, Unit 2 reactor.

The site includes approximately 50 acres of natural area and approximately

30 acres of recreational playing fields licensed to the Town of Waterford. Approximately 300 acres of the site are outside the land developed for the power station. The transmission lines that connect the Millstone Power Station to the New England grid along with the switchyard equipment are owned and maintained by the Connecticut Light and Power Company.

The exclusion area coincides with the site property boundary. The nearest residences are approximately 2400 feet from the reactors. The region within 6 miles of the site includes parts of the towns of Waterford, New London, Groton, East Lyme, and Old Lyme.

#### Identification of the Proposed Action

The proposed action would revise the Millstone 3 renewed facility operating license and technical specifications to increase the licensed rated power by approximately 7 percent from 3,411 MWt to 3,650 MWt. The proposed action is in accordance with the licensee's application dated July 13, 2007. If approved, the SPU would be implemented during the scheduled fall 2008 refueling outage.

#### The Need for the Proposed Action

The proposed action permits an increase in the licensed core thermal power from 3,411 MWt to 3,650 MWt for Millstone 3, providing the flexibility to obtain a higher electrical output from the Millstone Power Station. The proposed action is intended to provide an additional supply of electric generation in the State of Connecticut without the need to site and construct new facilities or to impose new sources of air or water discharges to the environment. The proposed action is intended to supply approximately 85 megawatts of additional electric capacity in a region of the New England Independent System Operator (ISO-NE) system where peak loads generally exceed local generation capacity.

#### Environmental Impacts of the Proposed Action

The licensee has submitted an environmental evaluation supporting the proposed SPU and provided a summary of its conclusions concerning the radiological and non-radiological environmental impacts of the proposed action.

##### Non-radiological Impacts

##### Land Use Impacts

The proposed SPU would not affect land use at the site. No new construction is planned outside of the existing facilities, and no expansion of buildings, roads, parking lots,

equipment storage areas, or transmission facilities would be required to support the proposed SPU. The proposed SPU would not require the storage of additional industrial chemicals or storage tanks on the site.

##### Transmission Facilities

The proposed SPU would not require any new transmission lines, transmission line conductor modifications, or new equipment to support SPU operation and would not require changes in the maintenance and operation of existing transmission lines, switchyards, or substations.

The licensee did not provide an estimate of the increase in the operating voltage due to the proposed SPU. Based on experience from SPUs at other plants, the NRC staff concludes that the increase in the operating voltage would be negligible. Because the voltage would not change significantly, there would be no significant change in the potential for electric shock.

The proposed SPU would increase the current. The National Electric Safety Code (NESC) provides design criteria that limit hazards from steady-state currents. The NESC limits the short-circuit current to the ground to less than 5 milliamperes. The transmission lines meet the applicable shock prevention provision of the NESC. Therefore, even with the slight increase in current attributable to the SPU, adequate protection is provided against hazards from electrical shock.

There would be an increase in current passing through the transmission lines associated with the increased power level of the proposed SPU. The increased electrical current passing through the transmission lines would cause an increase in electromagnetic field (EMF) strength. However, there is no scientific consensus regarding the health effects of EMFs produced by operating transmission lines. Therefore, the licensee did not quantify the chronic effects of EMF on human and biota. The potential for chronic effects for these fields continues to be studied and is not known at this time. The National Institute of Environmental Health Sciences (NIEHS) directs related research through the U.S. Department of Energy. A 2003 NIEHS study published in *Environmental Health Perspectives*, Volume 111, Number 3, dated March 2003, titled "Power-Line Frequency Electromagnetic Fields Do Not Induce Changes in Phosphorylation, Localization, or Expression of the 27-Kilodalton Heat Shock Protein in Human Keratinocytes," by Biao Shi, Behnom Farboud, Richard Nuccitelli, and R. Rivkah Isseroff of the University

of California, contains the following conclusion:

"The linkage of the exposure to the power-line frequency (50–60 Hz) electromagnetic fields (EMF) with human cancers remains controversial after more than 10 years of study. The *in vitro* studies on the adverse effects of EMF on human cells have not yielded a clear conclusion. In this study, we investigated whether power-line frequency EMF could act as an environmental insult to invoke stress responses in human keratinocytes using the 27-kDa heat shock protein (HSP27) as a stress marker. After exposure to 1 gauss (100  $\mu$ T) EMF from 20 min to 24 hr, the isoform pattern of HSP27 in keratinocytes remained unchanged, suggesting that EMF did not induce the phosphorylation of this stress protein. EMF exposure also failed to induce the translocation of HSP27 from the cytoplasm to the nucleus. Moreover, EMF exposure did not increase the abundance of HSP27 in keratinocytes. In addition, we found no evidence that EMF exposure enhanced the level of the 70-kDa heat shock protein (HSP70) in breast or leukemia cells as reported previously. Therefore, in this study we did not detect any of a number of stress responses in human keratinocytes exposed to power-line frequency EMF."

To date, there is not sufficient data to cause the NRC staff to change its position with respect to the chronic effects of EMFs. If, in the future, the NRC staff finds that, contrary to current indications, a consensus has been reached by appropriate Federal health agencies that there are adverse health effects from electromagnetic fields, the NRC staff will recommend the Commission change its current position regard EMF.

##### Water Use Impacts

The proposed SPU would increase the temperature of water discharged from Millstone 3. Temperatures at the discharge point would range from 50.5 °F in January through February to 90.6 °F in August through September. The maximum expected discharge temperature at 100 percent power under SPU conditions is 94.5 °F. Under all SPU conditions, Millstone Power Station will continue to operate in conformance with the existing National Pollution Discharge Elimination System (NPDES) permit conditions. The site NPDES permit limits the maximum temperature of the circulating water discharge to the quarry to 98 °F, the maximum change in temperature from Niantic Bay to the quarry to 24 °F, and the maximum temperature of water entering Long Island Sound at the quarry cut is 105 °F. The discharge is not allowed to increase the temperature of Long Island Sound beyond the plant's 8,000-ft radius mixing zone by more than an average of 4 °F and not to

exceed a maximum of 83 °F. The maximum temperature rise across the condenser under SPU conditions is 19.5 °F, which remains below the NPDES permit limit of 24 °F. With the ocean temperature at its design maximum temperature of 75 °F, the circulating water discharge temperature increases to a maximum of 94.5 °F during normal 100-percent power operation, which remains below the NPDES discharge limit of 98 °F. Because the increase under SPU conditions remains well below the facility's NPDES permit limits, the NRC staff determined that this increase is not significant and is bounded by previous NRC analysis of thermal discharge as documented in the "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants: Regarding Millstone Power Station, Units 2 and 3," dated July 2005. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to endangered or threatened species, or to the habitats of endangered or threatened species are expected as a result of the increase in thermal discharge. No measurable changes in the character, source, or intensity of noise generated at Millstone Station are expected as a result of the SPU, either inside or outside the plant.

#### Socioeconomic Impacts

The socioeconomic impacts associated with implementing the proposed SPU at Millstone 3 include a minor positive contribution in relation to the contribution of the overall outage scope to local and regional economies. The proposed SPU has a small positive impact on the continuation of employment of the local population with the associated expenditures for goods and services. The amount of future property tax payments are dependent on the future market value of the units, future valuations of other properties in these jurisdictions, and other factors according to the licensee's proposed SPU amendment, dated July 13, 2007.

#### Historic and Archaeological Resources at and Near Millstone Power Station

There are 181 properties in New London County listed in the National Register of Historic Places, with 62 falling within a radius of 6 miles of the Millstone Power Station site, according to the licensee's proposed SPU application, dated July 13, 2007. The licensee also performed an archaeological records search for the Millstone Power Station site according to the licensee's proposed SPU application, dated July 13, 2007. The

proposed SPU is not expected to impact historic or archaeological resources.

#### Summary

The proposed SPU would not result in a significant change in non-radiological impacts in the areas of land use, transmission facility operation, water use, socioeconomic factors, or historical or archaeological resources.

#### Radiological Impacts

##### Liquid Radioactive Waste and Offsite Doses

The licensee evaluated the impacts of the proposed SPU on radioactive liquid waste production, processing, discharge into the environment, resultant dose to members of the public, and impact to the quarry and Long Island Sound into which water is discharged. There will be a small increase (approximately 9.1 percent for long-lived activity) in the equilibrium radioactivity in the reactor coolant, which in turn will result in a maximum increase of 9.1 percent in the radioactivity content of the liquid releases, since input activities are based on long-term reactor coolant activity. Tritium levels are also expected to increase by 9.1 percent in the discharged liquid. This will result in increased aqueous tritium concentrations in the quarry. The releases, excluding tritium, would remain bounded by Table D-4a of the "Final Environmental Statement [FES] related to the operation of Millstone Nuclear Power Station, Unit 3," dated December 1984, which estimates liquid effluent releases, excluding tritium, of about 0.56 curies per year. The licensee's evaluation estimates the annual average release of tritium to be 1,100 curies based on values from 2001 through 2005, which is below the value reported in the "Generic Environmental Impact Statement [GEIS] for License Renewal of Nuclear Plants" (1996). The GEIS estimates an annual average of 1,330 curies of tritium liquid effluent release.

The evaluation shows that even with the small increase in the radioactivity being discharged into the environment, the projected dose to the maximally exposed member of the public, while slightly increased, (2.61E-03 millirem (mrem) for the Whole Body and 1.26E-02 mrem for the Critical Organ) will remain well below the "as low as is reasonably achievable" (ALARA) criteria in Appendix I to 10 CFR Part 50 (3 mrem to the total body and 10 mrem to any organ).

##### Gaseous Radioactive Wastes and Offsite Doses

The licensee evaluated the impacts of the proposed SPU on gaseous radioactive wastes. Gaseous radioactive wastes are activation gases and fission product radioactive noble gases which come from radioactive system leakage, continuous degasification, volume control tank (VCT) venting, gases used for tank cover gas, and gases generated in the radiochemistry laboratory. The evaluation shows that the proposed SPU would not significantly increase the inventory of gases normally processed in the gaseous waste management system. This is based on no change to the plant system functions and no change to the gas volume inputs occurring under SPU conditions.

The activity of radioactive gaseous nuclides present in the waste gas system will increase as a result of the SPU. This is due to the increased levels of gases in the reactor coolant system and the actions performed in the VCT. However, the operation of the waste gas system will not change and will continue to allow for decay of the short-lived radionuclides. Tritium will remain the largest component of the gaseous effluents, the largest contributor being from evaporation from the spent fuel pools. The proposed SPU will result in a small increase (approximately 9.5 percent for noble gases and 9.1 percent for particulates, iodine, and tritium) in the equilibrium radioactivity in the reactor coolant, which in turn increases the activity in the gaseous waste disposal systems and the activity released to the atmosphere.

The evaluation shows that even with the small increase in the gaseous radioactivity being discharged into the environment, the projected dose to the maximally exposed member of the public, while slightly increased (2.03E-02 mrem to the total body or 2.11E-02 mrem to the skin), will remain well below the ALARA criteria in Appendix I to 10 CFR Part 50 (5 mrem to the total body or 15 mrem to the skin).

##### Solid Radioactive Waste and Offsite Doses

Solid radioactive waste (radwaste) includes solids used in the reactor coolant system operation, solids recovered from the reactor coolant systems, and solids in contact with the reactor process system liquids or gases. While the SPU will slightly increase the activity level of radioactive isotopes in the reactor coolant system and the volume of radioactive liquid generated from leakage and planned drainage, there will only be a minimal effect on

the generation of radioactively contaminated sludge and resin solids processed as radwaste. The currently installed radwaste system and its total volume capacity for handling solid radwaste will not be affected. The activity of radwaste would increase proportionately to the increase in long half-life coolant activity, which would be bounded by a 9.1 percent increase under SPU conditions. This increase remains well below the activity level of 9,100 curies identified in Table 5-21 of the FES for Millstone 3. The increase in volume generated is expected to be minor under SPU conditions.

For the long-term operation of the plant under SPU conditions, the dose to an offsite member of the public from the onsite storage of solid radwaste is estimated to increase by approximately 10.22 percent. This is based on several assumptions, which are: (1) The current waste decays and its contribution decreases; (2) stored radwaste is routinely moved offsite for disposal; (3) waste generated post-SPU enters into storage; and (4) the plant capacity factor approaches the target of 1.0. The radiation dose from direct shine is cumulative based on the waste generated and stored onsite from all units over the plant's lifetime. The Millstone Station Offsite Dose Calculation Manual contains the requirements to ensure compliance with the radiation dose limits of 10 CFR Part 20 (100 mrem to the whole body in a year). Therefore, while a small increase in offsite radiation dose is expected (0.17 mrem to the whole body in a year; the pre-SPU whole body in a year was approximately 0.12 mrem), it will remain within regulatory limits of 10 CFR Part 20.

#### Occupational Radiation Doses

The radiation exposure to plant workers from the SPU is expected to be kept to a minimum based on the design features at the Millstone site and the Radiation Protection Program. The design features include: (1) Shielding, which is provided to reduce levels of radiation; (2) ventilation, which is arranged to control the flow of potentially contaminated air; (3) an installed radiation monitoring system, which is used to measure levels of radiation in potentially occupied areas and measure airborne radioactivity throughout the plant; and (4) respiratory protective equipment, which is used as prescribed by the Radiation Protection Program. The Radiation Protection Program contains procedures for all radiological work performed at the Millstone Power Station to ensure doses are maintained ALARA and in

compliance with regulatory limits in 10 CFR Part 20.

#### Fuel Cycle and Transportation Impacts

The environmental impacts of the fuel cycle and transportation of fuel and waste are described in 10 CFR 51.51, Table S-3 and 10 CFR 51.52, Table S-4, respectively. An NRC generic EA (53 FR 6040, dated February 29, 1988) evaluated the applicability of Tables S-3 and S-4 to a higher burn-up fuel cycle and concluded that there would be no significant change in environmental impact from the parameters evaluated in Tables S-3 and S-4 for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burn-ups less than 60,000 MW days per metric ton of uranium-235 (MWd/MTU).

The proposed SPU would increase the power level to 3,650 MWt, which is below the reference power level of 3,800 MWt for Table S-4. The fuel enrichment and burn-up after the SPU will continue to be no greater than 5 weight percent uranium-235, and the fuel burn-up will be maintained less than 60,000 MWd/MTU. The NRC staff concludes that the Millstone 3 SPU is bounded by the analysis of the environmental effects of the transportation of fuel and waste as described in the "Extended Burnup Fuel Use in Commercial [Light Water Reactors] LWRs; Environmental Assessment and Finding of No Significant Impact," dated February 29, 1988 (53 FR 6040).

#### Summary

Based on the NRC staff review of licensee's submission, it is concluded that the proposed SPU would not significantly increase the consequences of accidents, would not result in a significant increase in occupational or public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there would be no significant radiological environmental impacts associated with the proposed action.

#### Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed SPU (i.e., the "no-action" alternative). Denial of the application would result in no change in the current environmental impacts. However, if the proposed SPU were not approved, other agencies and electric power organizations may be required to pursue alternative means of providing electric generation capacity to offset the increased power demand forecasted for

the ISO-NE regional transmission territory.

A reasonable alternative to the proposed SPU would be to purchase power from other generators in the ISO-NE network. In 2008, generating capacity in ISO-NE consisted primarily of combined-cycle generators: Combined-cycle generated 37.8 percent of ISO-NE capacity; fossil—29.9 percent; nuclear—13.6 percent; hydroelectric—10.4 percent; combustion turbine—7.4 percent; diesel—0.7 percent; and miscellaneous—0.2 percent. This indicates that the majority of purchased power in the ISO-NE territory would likely be generated by a combined-cycle facility. Construction (if new generation is needed) and operation of a combined-cycle plant would create impacts in air quality, land use, and waste management significantly greater than those identified for the proposed SPU at Millstone 3. Millstone 3 does not emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that are commonly associated with combined-cycle plants. Conservation programs such as demand-side management could feasibly replace the proposed SPU's additional power output. However, forecasted future energy demand in the ISO-NE territory may exceed conservation savings and still require additional generating capacity. Furthermore, the proposed SPU does not involve environmental impacts that are significantly different from those originally identified in the 1984 Millstone FES for operation.

#### Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the "Final Environmental Statement Related to the Operation of Millstone Nuclear Power Station, Unit 3," dated December 1984, or the "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants: Regarding Millstone Power Station, Units 2 and 3," dated July 2005.

#### Agencies and Persons Consulted

In accordance with its stated policy, on March 28, 2008, via electronic mail, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML080930624), the NRC staff consulted with the Connecticut State Official, Mr. Denny Galloway of the Department of Environmental Protection, regarding the environmental impact of the proposed action. The state official submitted the following comments via electronic mail, dated

March 31, 2008 (ADAMS Accession No. ML080930624):

1. Does the SPU change fuel heat-up estimates under accident conditions? If so, by how much and is there still an adequate margin of safety to ensure safe shutdown of the reactor?

2. Are there any changes to possible off-site consequences from design basis accidents with the SPU that change current estimates on early or delayed health effects?

3. Does the SPU negatively impact critical safety functions for the safe shutdown of the reactor?

4. Is there sufficient safety injection with a margin of safety for the additional 239.0 MWt?

#### *State of Connecticut Comment 1*

Does the SPU change fuel heat-up estimates under accident conditions? If so, by how much and is there still an adequate margin of safety to ensure safe shutdown of the reactor?

#### *NRC Response to Comment 1*

This comment will be addressed in the NRC staff safety evaluation for the proposed power uprate.

The proposed power uprate will result in operation of a higher energy core. The reactor fuel, however, will not change significantly. The changes to the fuel to implement the uprate include a slightly higher steady-state heat generation rate and a minor increase in stored energy in the fuel. Under accident conditions, the increase in stored energy will have an impact on predicted fuel centerline and cladding temperatures, but the NRC staff is reviewing these increases to ensure there will be sufficient margin to the applicable acceptance criteria, and an acceptable margin of safety.

In the limiting accident scenario regarding peak fuel cladding temperature for the proposed power uprate, the large-break, loss-of-coolant accident, the NRC staff is reviewing the analysis for the predicted peak cladding temperature to ensure it meets the acceptance criteria of 2,200 °F.

A postulated ejection of a rod cluster control assembly (control rod) is the limiting accident with respect to peak fuel temperature. The NRC staff is reviewing the analyses for the proposed power uprate to ensure the acceptance criterion for acceptable fuel temperatures is met for the specific Millstone Power Station, Unit 3 fuel design.

Regarding the safe shutdown of the reactor, the NRC staff evaluates the shutdown of the reactor, and the shutdown capability for a reactor based on the functional capability of the control rods to insert into the core and shutdown the nuclear reactor. In the

sense of this comment, however, we construe your question to be directed to the state of the reactor after a postulated accident. In this sense, the NRC staff is reviewing the licensee's analyses for the proposed power uprate amendment to ensure the acceptance criteria are met and that the core will remain in a coolable geometry following a postulated accident.

#### *State of Connecticut Comment 2*

Are there any changes to possible off-site consequences from design basis accidents with the SPU that change current estimates on early or delayed health effects?

#### *NRC Response to Comment 2*

See the *Radiological Impacts* section above.

#### *State of Connecticut Comment 3*

Does the SPU negatively impact critical safety functions for the safe shutdown of the reactor?

#### *NRC Response to Comment 3*

This comment will be addressed in the NRC staff safety evaluation for the proposed power uprate.

The NRC staff is reviewing the functional design of the control rod drive system to ensure that the control rods will remain capable of inserting into the core and safely shutdown the reactor. The NRC staff is also reviewing the effects of a postulated accident that results from a failure of the control rod drive system to affect a safe shutdown. The NRC staff is reviewing the proposed power uprate amendment to ensure compliance with the requirements of 10 CFR 50.62, "Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants."

#### *State of Connecticut Comment 4*

Is there sufficient safety injection with a margin of safety for the additional 239.0 MWt?

#### *NRC Response to Comment 4*

This comment will be addressed in the NRC staff safety evaluation for the proposed power uprate.

The NRC staff is reviewing the licensee's loss-of-coolant accident analyses, which model the capabilities of the safety injection systems at the proposed uprated power level.

#### **Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the

NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 13, 2007, as supplemented on July 13, 2007, September 12, 2007, November 19, 2007, December 13, 2007, December 17, 2007, January 10, 2008 (4 letters), January 11, 2008 (4 letters), January 14, 2008, January 18, 2008 (5 letters), January 31, 2008, February 25, 2008 (2 letters) March 5, 2008, March 10, 2008 (2 letters), March 25, 2008, March 27, 2008, April 4, 2008, April 24, 2008, April 29, 2008, May 15, 2008, and May 20, 2008. Publicly available records are accessible electronically via the Agencywide Document Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). Additionally, documents may be examined and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**DATES:** The comment period expires July 7, 2008. Comments received after this date will be considered if it is practical to do so, but the Commission is only able to assure consideration of comments received on or before July 7, 2008.

**ADDRESSES:** Submit written comments to Chief, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T-6D59, Washington, DC 20555-0001. Written comments may also be delivered to 11545 Rockville Pike, Room T-6D59, Rockville, Maryland 20852 from 7:30 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be electronically available at the NRC's Public Electronic Reading Room link, <http://www.nrc.gov/reading-rm/adams.html>, on the NRC Web site or at the NRC's PDR located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1-800-397-4209, or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The NRC is considering issuance of an

amendment to Renewed Facility Operating License No. NPF-49 issued to DNC for the operation of Millstone Power Station, Unit 3, located in New London County, Connecticut.

**FOR FURTHER INFORMATION CONTACT:** John G. Lamb, Office of Nuclear Reactor Regulation, Mail Stop O-8B1A, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by telephone at (301) 415-3100, or by e-mail at [JGL1@nrc.gov](mailto:JGL1@nrc.gov).

Dated at Rockville, Maryland this 29th day of May, 2008.

For the Nuclear Regulatory Commission.

**John G. Lamb,**

*Senior Project Manager, Plant Licensing Branch I-2, Division of Operating Reactors, Office of Nuclear Reactor Regulation.*

[FR Doc. E8-12454 Filed 6-3-08; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No[s]. 52-022 and 52-023]

### **Progress Energy Carolinas, Inc.; Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the Shearon Harris Units 2 and 3**

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," notice is hereby given that a hearing will be held, at a time and place to be set in the future by the U.S. Nuclear Regulatory Commission (NRC, the Commission) or designated by the Atomic Safety and Licensing Board (Board). The hearing will consider the application dated February 18, 2008, filed by Progress Energy Carolinas, Inc., pursuant to Subpart C of 10 CFR Part 52, for a combined license (COL). The application requests approval of a COL for Shearon Harris Units 2 and 3, to be located in Wake County, North Carolina. The application was accepted for docketing on April 17, 2008 (April 23, 2008; 73 FR 21995). The docket numbers established for this COL application are 52-022 and 52-023. The Shearon Harris COL application

incorporates by reference Appendix D to 10 CFR 52 (which includes the AP1000 design through Revision 15), as amended by the AP1000 Design Control Document (DCD) submitted by Westinghouse as Revision 16. AP1000 DCD Revision 16 is the subject of an ongoing rulemaking under the docket number 52-006. By letter to Westinghouse dated January 18, 2008, the staff has accepted DCD Revision 16 for docketing.

The hearing on the COL application will be conducted by a Board that will be designated by the Chairman of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the COL application and will document its findings in a safety evaluation report. The Commission will refer a copy of the COL application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.87, "Referral to the ACRS," and the ACRS will report on those portions of the application that concern safety.

Any person whose interest may be affected by this proceeding and who desires to participate as a party to this proceeding must file a written petition for leave to intervene in accordance with 10 CFR 2.309. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A petition for leave to intervene must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Non-timely filings will not be entertained absent a determination by the Commission or presiding officer designated to rule on the petition, pursuant to the requirements of 10 CFR 2.309(c)(1)(i)-(viii).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. A petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which was promulgated by the NRC on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in

accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the petitioner must contact the Office of the Secretary by e-mail at [HearingDocket@nrc.gov](mailto:HearingDocket@nrc.gov), or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each participant will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a participant has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Standard Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact

Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Standard Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Standard Time on the due date.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at ([http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp)), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested

not to include copyrighted materials in their submission.

Any person who files a motion pursuant to 10 CFR 2.323 must consult with counsel for the applicant and counsel for the NRC staff who are listed below. Counsel for the applicant is John O'Neill, (202) 663-8148, [JohnOneill@PillsburyLaw.com](mailto:JohnOneill@PillsburyLaw.com). Counsel for the NRC staff in this proceeding is Sara E. Brock, (301) 415-8393, [Sara.Brock@nrc.gov](mailto:Sara.Brock@nrc.gov).

A person who is not a party may be permitted to make a limited appearance by making an oral or written statement of his or her position on the issues at any session of the hearing or any pre-hearing conference within the limits and conditions fixed by the presiding officer, but may not otherwise participate in the proceeding.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and will be accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The application is available at <http://www.nrc.gov/reactors/new-licensing/col/harris.html>. The ADAMS accession number for the COL application cover letter is ML080580078. The ADAMS accession number for the supplement [letter] to the application is ML080560118. To search for documents in ADAMS using the Shearon Harris COL application docket numbers 52-022 and 52-023, enter the terms "05200022" and "05200023" in the "Docket Number" field when using either the Web-based search (advanced search) engine or the ADAMS find tool in Citrix. In the case of the information referenced in the supplemental letter, the actual data can be obtained by contacting the NRC PDR.

The AP1000 DCD through Revision 15, which is incorporated by reference into Appendix D of Part 52, can be found by going to <http://www.nrc.gov/reactors/new-licensing/design-cert/ap1000.html>. The AP1000 DCD Revision 16 can be found using ADAMS accession number ML071580939 or by going to <http://www.nrc.gov/reactors/new-licensing/col/harris.html>. To search for documents in ADAMS using the

AP1000 DCD Revision 16 docket number 52-006, enter the term "05200006" in the ADAMS "Docket Number" field.

#### **Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation**

1. This order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)).

2. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A "potential party" is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than 10 days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are [HearingDocket@nrc.gov](mailto:HearingDocket@nrc.gov) and [OGCmail@nrc.gov](mailto:OGCmail@nrc.gov), respectively.<sup>1</sup> The request must include the following information:

- a. A description of the licensing action with a citation to this **Federal Register** notice of hearing and opportunity to petition for leave to intervene;
- b. The name and address of the potential party and a description of the potential party's particularized interest

<sup>1</sup> While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

that could be harmed by the action identified in (a);

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF-85, "Questionnaire for Non-Sensitive Positions," Form FD-248 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF-85 can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301-415-0320.<sup>2</sup> The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of \$191.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the U.S. Nuclear Regulatory Commission, Office of Administration, Security Processing Unit, Mail Stop T-6E46, Washington, DC 20555-0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal

history records check. Note: copies of these forms do not need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within 10 days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (i.e., indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding<sup>3</sup> and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and

that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.<sup>4</sup> Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,<sup>5</sup> and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within 5 days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to

<sup>4</sup> If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

<sup>5</sup> Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

<sup>2</sup> The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

<sup>3</sup> Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within 15 days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access

to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.<sup>6</sup>

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in

order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland, this 29th day of May 2008.

For the Nuclear Regulatory Commission.  
**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

**Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information In This Proceeding**

Day	Event/Activity
0	Publication of <b>Federal Register</b> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," "need to know," or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.

<sup>6</sup> As of October 15, 2007, the NRC's final "E-Filing Rule" became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; August 28, 2007). Requesters should note that the

filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI

requests submitted to the NRC staff under these procedures.

Day	Event/Activity
B .....	Decision on contention admission.

[FR Doc. E8-12428 Filed 6-3-08; 8:45 am]  
BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 50-446]

### Luminant Generation Company LLC; Notice of Withdrawal of Application for Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Luminant Generation Company LLC (the licensee) to withdraw its January 18, 2007, application for an amendment to Facility Operating License Nos. NPF-87 and NPF-89 for the Comanche Peak Steam Electric Station, Units 1 and 2, located in Hood County, Texas.

The proposed amendment would have revised Technical Specification 3.8.1 to extend the 72-hour completion time for one inoperable diesel generator to 14 days, provided an alternate AC [alternating current] power source was available.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing, published in the **Federal Register** on April 10, 2007 (72 FR 17952). However, by letter dated January 30, 2008, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 18, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML070230493), and the licensee's letter dated January 30, 2008 (ADAMS Accession No. ML080390310), which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS

should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 21st day of May, 2008.

For the Nuclear Regulatory Commission.

**Balwant K. Singal,**

*Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E8-12492 Filed 6-3-08; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57881; File Nos. SR-Amex-2008-40; SR-NASDAQ-2008-046; SR-NYSE-2008-39; SR-NYSEArca-2008-50]

### Self-Regulatory Organizations; American Stock Exchange LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, and NYSE Arca, Inc.; Notice of Filing of Proposed Rule Changes To Adopt a Trading Halt Rule in Connection With the Dissemination of Net Asset Value and Disclosed Portfolio for Certain Derivative Securities Products

May 29, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 14, 2008, the American Stock Exchange LLC ("Amex"), The NASDAQ Stock Market LLC ("Nasdaq"), the New York Stock Exchange LLC ("NYSE"), and NYSE Arca, Inc. ("NYSE Arca" and together with Amex, Nasdaq, and NYSE, collectively, the "Exchanges"), through its wholly owned subsidiary, NYSE Arca Equities, Inc. ("NYSE Arca Equities"), each filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II, and III below, which Items have been substantially prepared by the Exchanges. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

### I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

Each Exchange proposes to amend its respective rules to require a trading halt ("New Trading Halt Rule") in certain derivative securities products when the respective Exchange becomes aware that the net asset value ("NAV") and/or disclosed portfolio ("Disclosed Portfolio"),<sup>3</sup> as applicable, for such derivative securities product is not being disseminated to all market participants at the same time. The texts of the proposed rule changes are available at the Exchanges, the Commission's Public Reference Room, and the Exchanges' respective Internet Web sites.<sup>4</sup>

### II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, each Exchange included statements concerning the purpose of, and basis for, its proposed rule change and discussed any comments it received on the proposed rule change. The text of the statements may be examined at the places specified in Item IV below. The Exchanges have prepared summaries, set forth in sections A, B, and C, below, of the most significant aspects of such statements.

<sup>3</sup> "Disclosed Portfolio" is applicable only with respect to a series of Managed Fund Shares and is defined as the identities and quantities of the securities and other assets that: (1) Are held by a registered investment company organized as an open-end management investment company or similar entity that invests in a portfolio of securities selected by such investment company's investment adviser consistent with such investment company's investment objectives and policies; and (2) form the basis for such investment company's calculation of NAV. See Amex Rule 1002B (setting forth the continued listing standards for Managed Fund Shares and requiring, among other things, that the Disclosed Portfolio be disseminated at least once daily and made available to all market participants at the same time) and NYSE Arca Equities Rule 8.600 (setting forth the listing standards for Managed Fund Shares and requiring, among other things, that the Disclosed Portfolio be disseminated at least once daily and made available to all market participants at the same time). As of the date hereof, only Amex and NYSE Arca Equities have listing rules for Managed Fund Shares. See *infra* note 5.

<sup>4</sup> See <http://www.amex.com>, <http://www.nasdaq.com>, and <http://www.nyse.com> (for both NYSE and NYSE Arca).

*A. Self-Regulatory Organizations' Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

1. Purpose

Each Exchange proposes to amend its respective rules<sup>5</sup> to require a trading halt in certain derivative securities products<sup>6</sup> that are listed and trading on

<sup>5</sup> For purposes of the proposed rule changes, Amex seeks to adopt new Amex Rule 117A and Commentary .01 thereto (Net Asset Value/ Disclosed Portfolio Dissemination and Trading Halts); Nasdaq seeks to amend Nasdaq Rule 4120 (Trading Halts); NYSE seeks to amend NYSE Rule 123D (Openings and Halts in Trading); and NYSE Arca seeks to amend NYSE Arca Equities Rule 7.34 (Trading Sessions).

<sup>6</sup> Each Exchange seeks to apply its respective New Trading Halt Rule to certain derivative securities products for which: (1) Such Exchange has listing and trading standards; and (2) an NAV and, in the case of Managed Fund Shares, a Disclosed Portfolio, is disseminated. See proposed Amex Rule 117A (applying Amex's New Trading Halt Rule to Portfolio Depository Receipts (Amex Rule 1000-AEMI), Index Fund Shares (Amex Rule 1000A-AEMI), Trust Issued Receipts (Commentary .07 to Amex Rule 1202), Managed Fund Shares (Amex Rule 1000B), Commodity-Based Trust Shares (Amex Rule 1200A), Currency Trust Shares (Amex Rule 1200B), Paired Trust Shares (Amex Rule 1400), Partnership Units (Amex Rule 1500), and Trust Units (Amex Rule 1600)); proposed Nasdaq Rule 4120(a)(10) (applying Nasdaq's New Trading Halt Rule to Portfolio Depository Receipts (Nasdaq Rule 4420(i)), Index Fund Shares (Nasdaq Rule 4420(j)), Trust Issued Receipts (Nasdaq Rule 4420(l)), Commodity-Related Securities (as defined in Nasdaq Rule 4630), and securities representing interests in unit investment trusts or investment companies); proposed NYSE Rule 123D(5) (applying NYSE's New Trading Halt Rule to Investment Company Units (NYSE Rule 1100), Trust Issued Receipts (NYSE Rule 1200), Currency Trust Shares (NYSE Rule 1300A), and Commodity Trust Shares (NYSE Rule 1300B)); and proposed NYSE Arca Equities Rule 7.34(a)(5) (applying NYSE Arca's New Trading Halt Rule to Investment Company Units (NYSE Arca Equities Rule 5.2(j)(3)), Portfolio Depository Receipts (NYSE Arca Equities Rule 8.100), Trust Issued Receipts (NYSE Arca Equities Rule 8.200), Commodity-Based Trust Shares (NYSE Arca Equities Rule 8.201), Currency Trust Shares (NYSE Arca Equities Rule 8.202), Commodity Index Trust Shares (NYSE Arca Equities Rule 8.203), Commodity Futures Trust Shares (NYSE Arca Equities Rule 8.204), Partnership Units (NYSE Arca Equities Rule 8.300), Paired Trust Shares (NYSE Arca Equities Rule 8.400), Trust Units (NYSE Arca Equities Rule 8.500), and Managed Fund Shares (NYSE Arca Equities Rule 8.600)).

Nasdaq seeks to apply its New Trading Halt Rule to proposed Managed Fund Shares through a separate proposed rule change. See Securities Exchange Release No. 57800 (May 8, 2008), 73 FR 27874 (May 14, 2008) (SR-NASDAQ-2008-039) (proposing, among other things, to include Managed Fund Shares (new Nasdaq Rule 4420(o)) under the definition of "Derivative Securities Product," for purposes of Nasdaq Rule 4120(b)(4)(A)) ("Nasdaq Proposal"). Nasdaq represents that it will file an amendment to its proposed rule change (File No. SR-Nasdaq-2008-046) upon the Commission's approval of the Nasdaq Proposal to modify its New Trading Halt Rule to account for the Disclosed Portfolio with respect to a series of Managed Fund Shares listed and traded on Nasdaq. E-mail from Sean Bennett, Assistant General Counsel, Nasdaq, to Edward Cho, Special Counsel, Division of

such Exchange, if such Exchange becomes aware that the NAV and/or Disclosed Portfolio, as applicable, for such derivative product is not being disseminated to all market participants at the same time. In addition, each Exchange would resume trading in such halted derivative securities product only when the NAV and/or Disclosed Portfolio, as applicable, is disseminated to all market participants.<sup>7</sup> Each Exchange represents that, in the event the NAV and/or Disclosed Portfolio, as applicable, for a series of derivative securities product ceases to be disseminated altogether, such Exchange would halt trading in such derivative securities product.

2. Statutory Basis

The Exchanges believe that their respective proposed rule changes are consistent with the Act and the rules and regulations under the Act applicable to national securities exchanges and, in particular, the requirements of section 6(b) of the Act.<sup>8</sup> Specifically, the Exchanges believe their respective proposed rule changes are consistent with the requirements of section 6(b)(5) of the Act,<sup>9</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organizations' Statement on Burden on Competition*

The Exchanges believe that their respective proposed rule changes would impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Trading and Markets, Commission, dated May 19, 2008.

<sup>7</sup> Nasdaq's New Trading Halt Rule also provides that, in the case of a halted Derivative Securities Products (as defined in Nasdaq Rule 4120(b)(4)(A)) trading on Nasdaq pursuant to unlisted trading privileges, Nasdaq would resume trading in such Derivative Securities Product only until such time trading resumes in the listing market for such Derivative Securities Product. The Nasdaq Proposal also seeks to make technical, non-substantive changes to Nasdaq Rules 4120(a) and (c) to incorporate new Nasdaq Rule 4120(a)(10).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

*C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others*

The Exchanges have neither solicited nor received comments on their respective proposals.

**III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchanges consent, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Numbers SR-Amex-2008-40; SR-NASDAQ-2008-046; SR-NYSE-2008-39; and SR-NYSEArca-2008-50 in the subject line.

*Paper comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Numbers SR-Amex-2008-40; SR-NASDAQ-2008-046; SR-NYSE-2008-39; and SR-NYSEArca-2008-50. These file numbers should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written

communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549-1090 on business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the respective principal offices of the Exchanges. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Numbers SR-Amex-2008-40; SR-NASDAQ-2008-046; SR-NYSE-2008-39; and SR-NYSEArca-2008-50 and should be submitted on or before June 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-12395 Filed 6-3-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57861; File No. SR-NYSE-2008-42]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Enhance Its NYSE OpenBook Product Offerings

May 23, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 16, 2008, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders

the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to enhance its NYSE OpenBook® product offerings to offer additional separate data feeds containing NYSE quotations and order imbalance information. The text of the proposed rule change is available at <http://www.nyse.com>, the Exchange, and the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

NYSE OpenBook responds to the desire of some market participants for depth-of-market data. It is a compilation of limit order data that the Exchange provides to market data vendors, broker-dealers, private network providers and other entities (collectively, "Vendors") through a data feed. For every limit price, NYSE OpenBook includes the aggregate order volume.

NYSE OpenBook is a packaged suite of data feed products. In addition to the current NYSE OpenBook data feed ("NYSE OpenBook Realtime"), for no additional charge, the Exchange makes available to NYSE OpenBook recipients a separate data feed containing NYSE quotations ("NYSE BestQuote").<sup>5</sup> NYSE BestQuote allows customers to see additional market interest that is not displayed in the NYSE limit order book and that, therefore, is not available in NYSE OpenBook.

This proposed rule change:

i. Responds to a demand for a newly enhanced version of the NYSE OpenBook product to be called NYSE OpenBook Ultra, which provides order-level detail; and

ii. Adds to NYSE OpenBook a new category of information: information regarding order imbalances prior to the market opening and closing auctions ("Order Imbalance Information").

(1) *NYSE OpenBook Ultra*. The Exchange makes NYSE OpenBook Realtime available on a snapshot basis, with updates distributed in real-time at intervals of one second. Pursuant to this proposed rule change, the Exchange proposes to make available an enhanced NYSE OpenBook service that would update NYSE OpenBook information upon receipt of each displayed limit order ("NYSE OpenBook Ultra"). NYSE OpenBook Ultra responds to the desire of some market participants for real-time depth-of-book data on an order-by-order basis. In addition, NYSE OpenBook Ultra will improve upon NYSE OpenBook Realtime by adding information regarding the changes in limit order interest, by providing more precise timestamp resolution (microseconds) and by providing an easy-to-read format that is optimized for speed and recoverability.

The Exchange will continue to support NYSE OpenBook Realtime and will offer NYSE OpenBook Ultra as an optional alternative without additional or different fees or terms. However, the Exchange anticipates that it will reassess its pricing for NYSE OpenBook, and may restructure or modify the charges applicable to the NYSE OpenBook Realtime and NYSE OpenBook Ultra packages. The Exchange will submit any proposed new or modified fees to the Commission as proposed rule changes and will not impose any new or modified charges on data feed recipients and end-users prior to Commission approval.

(2) *Order Imbalance Information*. Order Imbalance Information is a data feed of real-time order imbalances that accumulate prior to the opening of trading on the Exchange and prior to the close of trading on the Exchange. These orders are subject to execution at the market's opening or closing price, as the case may be, and represent issues that are likely to be of particular trading interest at the opening or closing.

The Exchange plans to distribute information about these imbalances in real-time at specified intervals prior to the opening and closing auctions. Initially, the Exchange proposes to make order imbalance information available at the following intervals:

For opening order imbalances:

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> NYSE added NYSE BestQuote to the NYSE OpenBook Realtime package in October 2006. See Securities Exchange Act Release No. 54594 (October 12, 2006), 71 FR 61819 (October 19, 2006) (SR-NYSE-2006-81).

- Every five minutes between 8:30 a.m. Eastern Time ("ET") and 9 a.m. ET.
  - Every one minute between 9 a.m. ET and 9:20 a.m. ET.
  - Every 15 seconds between 9:20 a.m. ET and the opening (or 9:35 a.m. ET if the opening is delayed).
- For closing order imbalances:
- Every fifteen seconds between 3:40 p.m. ET and 3:50 p.m. ET.
  - Every five seconds between 3:50 p.m. ET and 4 p.m. ET.

Order Imbalance Information will also include the imbalance information that the Exchange is required to disseminate under NYSE Rule 123C(5), as well as automated real-time streaming order imbalance information at specified intervals.

The Exchange proposes to make Order Imbalance Information available as part of the NYSE OpenBook package at no additional charge.

(3) *Fees.* Currently, an end-user of NYSE OpenBook pays (or its Vendor pays on its behalf) the monthly per-terminal NYSE OpenBook device fee of \$60. A NYSE OpenBook data feed recipient pays a monthly \$5,000 access fee for NYSE OpenBook, plus the per-terminal fee if the data feed recipient also displays the data.

For the moment, the Exchange proposes to permit data feed recipients and end-users to receive and use NYSE OpenBook Ultra, including Order Imbalance Information and NYSE BestQuote, for no additional charge. That is, the same \$5,000 access fee and \$60 per-terminal fee will apply. This will allow current NYSE OpenBook recipients to sample the proposed enhanced version of NYSE OpenBook for the same fees that they pay today.

(4) *Contracts.* As with OpenBook Realtime, the Exchange proposes to make NYSE OpenBook Ultra (including Order Imbalance Information and NYSE BestQuote) available under the same contracting arrangement that the Commission has approved for the receipt and use of market data under the CTA and CQ Plans. That arrangement contemplates that each data feed recipient enter into the Commission-approved standard form of "Agreement for Receipt and Use of Market Data" that Network A uses for data redistributors and other parties that use the data for purposes other than interrogation.<sup>6</sup>

<sup>6</sup> The Participants in the CTA and CQ Plans first submitted the Consolidated Vendor Form to the Commission for immediate effectiveness in 1990. See Securities Exchange Act Release No. 28407 (September 6, 1990), 55 FR 37276 (September 10, 1990) (File No. 4-281). The Commission approved a revised version of it in 1996 in conjunction with the participants' restatement of the CTA and CQ Plans. See Securities Exchange Act Release No.

Exhibit A to each of those agreements would need to be updated to reflect the receipt and use of NYSE OpenBook Ultra data. The arrangement also requires an end-user of the information (other than a data feed recipient) to enter into a Commission-approved Network A professional subscriber or a nonprofessional subscriber agreement, as the case may be.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>7</sup> that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>10</sup> permits the Commission to

37191 (May 9, 1996), 61 FR 24842 (May 16, 1996) (File No. SR-CTA/CQ-96-1).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change,

designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay set forth in Rule 19b-4(f)(6)(iii) under the Act, which would make the rule change operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would immediately allow the Exchange to disseminate this supplemental information prior to the execution of the opening and closing transactions on the NYSE. Accordingly, the Commission designates the proposal to be operative upon filing with the Commission.<sup>11</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2008-42 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2008-42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE has satisfied the pre-filing notice requirement.

<sup>11</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2008-42 and should be submitted on or before June 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-12235 Filed 6-3-08; 8:45 am]

BILLING CODE 8010-01-P

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## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to waive the Nonmanufacturer Rule for Televisions.

**SUMMARY:** The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Televisions. According to the request, no small business manufacturers supply this class of product to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

**DATES:** Comments and source information must be submitted June 19, 2008.

**ADDRESSES:** You may submit comments and source information to Edith G. Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Edith G. Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by e-mail [edith.butler@sba.gov](mailto:edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months.

The SBA defines "class of products" based on six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Televisions, North American Industry Classification System (NAICS) code 334220 product number 5820.

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Dated: May 28, 2008.

**Karen C. Hontz,**

*Director for Government Contracting.*

[FR Doc. E8-12494 Filed 6-3-08; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

[License No. 09/79-0454]

### Emergence Capital Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Emergence Capital Partners SBIC, L.P. proposes to provide equity/debt security financing to Lithium Technologies, Inc., 6121 Hollis Street, Suite 4, Emeryville, CA 94608 ("Lithium"). The financing is contemplated for working capital and general corporate purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Emergence Capital Partners, L.P. and Emergence Capital Associates, L.P., all Associates of Emergence Capital Partners SBIC, L.P., own more than ten percent of Lithium. Therefore this transaction is considered a Financing of an Associate, requiring an exemption.

Notice is hereby given that any interested person may submit written comments on the transaction within 15 days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: May 2, 2008.

**A. Joseph Shepard,**

*Associate Administrator for Investment.*

[FR Doc. E8-12496 Filed 6-3-08; 8:45 am]

BILLING CODE 8025-01-P

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## DEPARTMENT OF STATE

[Public Notice: 6245]

### 30-Day Notice of Proposed Information Collection: DS-573, DS-574, DS-575, and DS-576, Overseas Schools—Grant Request Automated Submissions Program (GRASP), OMB Control No. 1405-0036

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

<sup>12</sup> 17 CFR 200.30-3(a)(12).

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Overseas Schools Grant Request Automated Submissions Program (GRASP).
- *OMB Control Number:* OMB Control No. 1405-0035.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, A/OPR/OS.
- *Form Number:* DS-573, DS-574, DS-575, and DS-576.
- *Respondents:* Recipients of grants.
- *Estimated Number of Respondents:* 194.
- *Estimated Number of Responses:* 194.
- *Average Hours per Response:* 1.5.
- *Total Estimated Burden:* 291.
- *Frequency:* Annually.
- *Obligation To Respond:* Required to obtain a benefit.

**DATES:** Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 7, 2008.

**ADDRESSES:** Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

- *E-mail:* [kastrich@omb.eop.gov](mailto:kastrich@omb.eop.gov). You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202-395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may obtain copies of the proposed information collection and supporting documents from Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Room H-328, 2301 C Street, NW., Washington, DC 20522-0132, who may be reached on 202-261-8200 or at [millerkd2@state.gov](mailto:millerkd2@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed

collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

#### Abstract of Proposed Collection

The Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service posts for dependents of U.S. Government personnel stationed abroad and for assisting American-sponsored overseas schools in their efforts to demonstrate U.S. educational philosophy and practice. The information gathered enables A/OPR/OS to advise the Department and other foreign affairs agencies regarding current and constantly changing conditions, and enables A/OPR/OS to make judgments regarding assistance to school for the improvement of educational opportunities.

#### Methodology

Information is collected via electronic media.

Dated: May 16, 2008.

**Peggy M. Philbin,**

*Executive Director, Bureau of Administration, Department of State.*

[FR Doc. E8-12501 Filed 6-3-08; 8:45 am]

**BILLING CODE 4710-24-P**

#### DEPARTMENT OF STATE

[Public Notice 6244]

#### Determination Under Section 699C of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008, Relating to Assistance to the Democratic Republic of Congo

Pursuant to the authority vested in me by Section 699C(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (Div. J, P.I. 110-161), I hereby determine that waiver of the application of the restriction in Section 699C(a) to the Democratic Republic of Congo is important to the national interest of the United States and thereby waive this restriction with respect to that country.

This determination shall be reported to Congress and published in the **Federal Register**.

Dated: May 9, 2008.

**Condoleezza Rice,**

*Secretary of State, Department of State.*

[FR Doc. E8-12500 Filed 6-3-08; 8:45 am]

**BILLING CODE 4710-26-P**

#### DEPARTMENT OF STATE

[Public Notice 6177]

#### Defense Trade Advisory Group; Notice of Open Meeting

**SUMMARY:** The Defense Trade Advisory Group (DTAG) will meet in open session from 9 a.m. to 12 noon on Thursday, June 19, 2008, in the East Auditorium at the U.S. Department of State, Harry S. Truman Building, Washington, DC. Entry and registration will begin at 8:15 a.m. Please use the building entrance located at 21st Street, NW., Washington, DC between C & D Streets. The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The purpose of the meeting will be to discuss current defense trade issues and topics for further study.

Members of the public may attend this open session and will be permitted to participate in the discussion in accordance with the Chair's instructions. Members of the public may, if they wish, submit a brief statement to the committee in writing.

As access to the Department of State facilities is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by COB Thursday, June 12, 2008. If notified after this date, the DTAG Secretariat cannot guarantee that the Department's Bureau of Diplomatic Security can complete the necessary processing required to attend the June 19 plenary.

Each non-member observer or DTAG member needing building access that wishes to attend this plenary session should provide: his/her name; company or organizational affiliation; phone number; date of birth; and identifying data such as driver's license number, U.S. Government ID, or U.S. Military ID, to the DTAG Secretariat contact person, Allie Frantz, via e-mail at [FrantzA@state.gov](mailto:FrantzA@state.gov). DTAG members planning to attend the plenary session should notify the DTAG Secretariat contact person, Allie Frantz, at the e-mail provided above. A RSVP list will be provided to Diplomatic Security. One of the following forms of valid photo identification will be required for

admission to the Department of State building; U.S. driver's license, passport, U.S. Government ID or other valid photo ID.

For additional information, contact Allie Frantz, PM/DDTC, SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522-0112; telephone (202) 736-9220; FAX (202) 261-8199; or e-mail [FrantzA@state.gov](mailto:FrantzA@state.gov).

Dated: May 28, 2008.

**Robert S. Kovac,**

*Designated Federal Official, Defense Trade Advisory Group, Department of State.*

[FR Doc. E8-12510 Filed 6-3-08; 8:45 am]

BILLING CODE 4710-25-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### RTCA Program Management Committee

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Program Management Committee meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

**DATES:** The meeting will be held June 19, 2008 starting at 9 a.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC, 20036; telephone (202) 833-9339; fax (202) 833-9434; *Web site* <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- June 19:
- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of December 6, 2007 Meeting, Paper No. 092-08/PMC-618).
- Publication Consideration/ Approval:

- Final Draft, New Document, *Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems II (TCASII)*, RTCA Paper No. 102-08/PMC-619, prepared by SC-147.

- Final Draft, Revised DO-230A, *Integrated Security Systems Standard for Airport Access Control*, RTCA Paper 121-08/PMC-622, prepared by SC-207.

- Final Draft, New Document, *Safety, Performance and Interoperability Requirements Document for the In-trial Procedure in Oceanic Airspace (ATSA-ITP) Application*, RTCA Paper No. 122-08/PMC-623, prepared by SC 186.

- Discussion:
- Attitude and Heading Reference System (AHRS)—Discussion—Possible New Special Committee.

- Automatic Flight Guidance and Control—Discussion—Possible New Special Committee SC.

- Airport Surface Wireless Link—Discussion—Possible New Special Committee.

- Special Committee Chairman's Reports.

- Action Item Review:
- SC-203—Unmanned Aircraft Systems (UAS)—Discussion—Status Review.

- SC-205—Software Consideration—Discussion—Terms of Reference.

- SC-214—Standards for Air Traffic Data Communications Services Discussion—Review/Approve Terms of Reference.

Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 28, 2008.

**Francisco Estrada C.,**

*RTCA Advisory Committee.*

[FR Doc. E8-12350 Filed 6-3-08; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Seventh Meeting: RTCA Special Committee 210, Cabin Systems and Equipment

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 210, Cabin Systems and Equipment.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 210, Cabin Systems and Equipment.

**DATES:** The meeting will be held July 15-17, 2008, from 9-5 p.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street NW., Suite 805 Washington, DC 20036, Colson Board Room.

**FOR FURTHER INFORMATION CONTACT:** (1) RTCA Secretariat, 1828 L Street NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; *Web site* <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 210, Cabin Management Systems meeting.

**Note:** SC-210's work product (document DO-3XX, Certification Guidance for Installation of Non-Essential, Non-Required Aircraft Cabin Systems & Equipment), will be published for Final Review and Comment (FRAC) during the month of June 2008. Comments will be accepted until early July 2008. The primary goal of this plenary meeting is to review comments received and incorporate changes to the document, as appropriate.

The agenda will include:

- July 15:
- Opening Plenary Session (Welcome/Introductions/Administrative Remarks/ Review of Agenda).

- Approval of Summary of the sixth meeting held April 1-3, 2008, RTCA Paper No. 089-08/SC210-013 (Chair).

- PMC update (RTCA).
- Regulatory Update (Regulatory Agency):

- FAA.
- Transport Canada.
- EUROCAE/ICAO.
- Report on FRAC Results (Chair).
- Summary of compiled results.
- Overall direction for Committee (Chair).

- Organizational Items: leadership, WG structure, etc.

- Review of Committee Project Schedule.

- Recess Plenary Meeting.
- Break-up for Working Session.
- Committee-at-Large, Review/Incorporation of FRAC Results.

- Close out of day's activities.
- Items for group discussion/ resolution.

- Review of tomorrow's activities.
- July 16:
- Continue Working Group Session.
- Committee-at-Large, Review/Incorporation of FRAC Results.

- Close out of day's activities.
- Items for group discussion/ resolution.

- Review of tomorrow's activities.
- July 17:
- Continue Working Group Session.
- Reconvene Plenary Meeting.
- Reports from Working Session.

- Current status (accomplishments during plenary).

- Discussion/Resolution of outstanding issues.

- Anticipated accomplishments by next plenary and plan to achieve.

- Other Committee Business.

- Discussion of document creation and text writing assignments.

- Document Structure/Review (Editor & Leadership Team).

- Review of Committee Project Schedule.

- Terms and Reference—Review Status.

- Assignment of Responsibilities.

- Closing Plenary Session (Other Business, Establish Agenda for Next Meeting, Date, and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 28, 2008.

**Francisco Estrada C.,**

*RTCA Advisory Committee.*

[FR Doc. E8–12353 Filed 6–3–08; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Seventh Meeting: Special Committee 209, ATRCBS [Mode S Transponder MOPS Maintenance

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 209, EUROCAE WG–49 Joint Plenary Session ATRCBS/Mode S Transponder MOPS Maintenance.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 209, ATRCBS/ Mode S Transponder MOPS Maintenance.

**DATES:** The meeting will be held June 18–19, 2008 from 9 a.m.–5 p.m.

**ADDRESSES:** RTCA Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036–5133; telephone (202) 833–9339; fax (202) 833 9434; Web site [http://](http://www.rtca.org)

[www.rtca.org](http://www.rtca.org); (2) Secretary Contact: Gary Fun; telephone (609) 485–4254, e-mail [gary.ctr.furr@faa.gov](mailto:gary.ctr.furr@faa.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 209 meeting. The agenda will include: June 18–19:

- Co-Chairs Welcome, Introductions and Remarks;

- Review and Approval of the Agenda (SC209–WPO8–01);

- Review and Approval of the Minutes from SC–209WG #1, Mtg #6 (SC209 WPO8–02);

- Discussion of issues related to Final Review and Comment (FRAC) draft copies of DO–181/ED–73 Base Documents (DO–181D\_v2.0=SC209–WPO8–03), (ED–73C=WG49N17-xx); a. (SC209–WP08–04)—Review Consolidated Set of Comments on FRAC Draft;

- Discussion of issues related to Final Review and Comment (FRAC) draft copy of DO–144A (SC209–WP08–05);

- Closing Plenary Session (Date, Place and Time of Future Meetings, Discussion of Agenda topic for Next Meeting(s), Other Business, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, May 28, 2008.

**Francisco Estrada C.,**

*RTCA Advisory Committee.*

[FR Doc. E8–12347 Filed 6–3–08; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE–2008–22]

#### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve

the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before June 24, 2008.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2008–0481 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tyneka Thomas (202) 267–7626 or Laverne Brunache (202) 267–3133, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on May 29, 2008.

**Pamela Hamilton-Powell,**  
Director, Office of Rulemaking.

#### Petition for Exemption

Docket No.: FAA-2008-0481.

Petitioner: AirTran Airways.

Section of 14 CFR Affected: 14 CFR 121.619

*Description of Relief Sought:* To permit AirTran Airways to dispatch to domestic airports at which, for at least 1 hour before and 1 hour after the estimated time of arrival at the destination airport, the appropriate weather reports or forecasts, or any combinations of them, indicate the ceiling will be reduced from at least 2,000 feet to 1,000 feet above the airport elevation; and visibility will be reduced from at least 3 miles to 1 mile.

[FR Doc. E8-12422 Filed 6-3-08; 8:45 am]

BILLING CODE 4910-13-P

### DEPARTMENT OF TRANSPORTATION

#### Federal Railroad Administration

##### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

##### Santa Clara Valley Transportation Authority

(Modification to Waiver Petition Docket Number FRA-1999-6254)

As a modification to Santa Clara Valley Transportation Authority's (VTA) existing Vasona Corridor Light Rail (Vasona Line) Shared Use/Temporal Separation waiver originally granted by FRA on September 26, 2005, VTA requests FRA to modify the original terms and conditions of its permanent waiver of compliance from sections of Title 49 of the CFR. This request is made due to changes that have recently occurred along the Vasona Line, a light rail line that features "limited connections" such as a shared corridor operation and an at-grade diamond rail crossover of the VTA light rail track by a Union Pacific Railroad Company (UPRR) freight spur within this shared corridor. See *Statement of Agency Policy Concerning Jurisdiction Over the*

*Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment*, 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems*, 65 FR 42626 (July 10, 2000).

On December 11, 2007, the spur and siding at Milepost (MP) 3.82 that served a wholesale flooring company were abandoned and removed by UPRR, which operates a freight railroad in this corridor but on separate track from the light rail system. This action rendered obsolete the Lincoln/UPRR diamond crossover which allowed UPRR trains the ability to cross the VTA light rail tracks to gain entry into the spur and service the flooring business. With the removal of the spur and siding, the trackage, switch, and diamond, as well as signal equipment at the diamond, are no longer needed and can be removed from service. With the exception of eliminating freight car movements across the light rail tracks, there will be no other changes to VTA light rail operations or UPRR freight rail operations at this location or elsewhere along the Vasona Corridor.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-1999-6254) and may be submitted by any of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Fax:* 202-493-2251.

*Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.

*Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that

date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC on May 29, 2008.

**Grady C. Cothen, Jr.,**

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8-12405 Filed 6-3-08; 8:45 am]

BILLING CODE 4910-06-P

### DEPARTMENT OF TRANSPORTATION

#### Federal Railroad Administration

##### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

##### Norfolk Southern Corporation

(Docket Number FRA-2008-0042)

The Norfolk Southern Corporation (NS) seeks a waiver of compliance from certain provisions of 49 CFR Part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*. Specifically, NS is requesting a temporary waiver from the requirement to display in real-time, in the cab of the locomotive, the total train dynamic brake retarding force available in the train, as prescribed in 49 CFR 232.109(g)(2), on locomotives placed in service for the first time on or after October 1, 2007. The functionality of this requirement is commonly referred to as the "Dynamic Brake Status Reporting" (DBSR).

NS accepted delivery of 50 new ES40DC locomotives from General Electric, which were equipped with DBSR systems as specified in the Association of American Railroads (AAR) Standard S-5509 (S-5509). At that time, S-5509 required the DBSR systems to operate on ANSI/EIA 709.2 (Echelon PL-22) communication frequency on the C-band, which is the same communication band used by the Electronically Controlled Pneumatic (ECP) brake systems. On February 14, 2008, AAR modified S-5509 by requiring the DBSR systems to use a communication frequency on A-band, instead of the C-band, to eliminate any interference problems the two systems could encounter using the same frequency band. This modification applies to all new locomotives, as well as a retrofit of locomotives presently equipped with DBSR systems employing the C-band.

NS currently operates trains equipped with ECP brake technology that utilize many of the 50 locomotives that were equipped with the DBSR systems using the C-band communication configuration. These trains have experienced communication interference problems due to the two systems using the same C-band channel. Tests have shown that electrically disconnecting the DBSR system from the affected locomotives causes the communication interference to subside. Therefore, NS requests a temporary waiver of § 232.109(g)(2) in order to electrically disconnect the DBSR system until the locomotives are modified with the new A-band DBSR system. In addition to these locomotives being equipped with functioning acceleration/deceleration displays per § 232.109(h)(2), NS will continue to inform the locomotive engineer of the operational status of dynamic brakes on all locomotives, pursuant to § 232.109(a) and (i). The locomotive numbers for this waiver request are NS 7670-7719.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2008-0042) and may be submitted by any of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Fax:* 202-493-2251.

*Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.

*Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 20 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC on May 29, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E8-12407 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

### San Manuel Arizona Railroad Company

*(Waiver Petition Docket Number FRA-2008-0043)*

The San Manuel Arizona Railroad Company (SMAR) seeks a petition for a permanent waiver of compliance from the requirements of 49 CFR Part 223 Safety Glazing—223.11, *Requirement for Existing Locomotives*. This waiver request is specifically for locomotive numbers 16, 18 and 19.

Locomotive numbers 18 and 19 are equipped with Type I and locomotive number 16 is equipped with Type I-A DOT Glazing. SMAR states that equipping their locomotives with FRA Type Certified Glazing would be a financial burden.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2008-0043) and may be submitted by any of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Fax:* 202-493-2251.

*Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.

*Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the

name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC on May 29, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E8-12408 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2008-0047]

#### Petition for Waiver of Compliance; Correction

**SUMMARY:** The Federal Railroad Administration (FRA) published a document in the **Federal Register** on April 28, 2008 announcing receipt of a joint request for waiver of compliance from the City of Seattle, Washington and the BNSF Railway Company. This notice corrects that document by acknowledging that the request for waiver of compliance from a certain provision of 49 CFR Part 222 was solely filed by the City of Seattle, Washington.

#### FOR FURTHER INFORMATION CONTACT:

Ronald Ries, Office of Safety, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: 202-493-6299 or e-mail: [Ronald.Ries@dot.gov](mailto:Ronald.Ries@dot.gov)); or Kathryn Shelton, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: 202-493-6038 or e-mail: [Kathryn.Shelton@dot.gov](mailto:Kathryn.Shelton@dot.gov)).

**SUPPLEMENTARY INFORMATION:** On April 28, 2008, FRA published a document announcing its receipt of a joint request for permanent waiver of compliance from a certain provision of 49 CFR Part 222 pertaining to the establishment of Pre-Rule Quiet Zones. However, BNSF Railway Company subsequently filed written correspondence asserting that it did not consent to the filing of the request for waiver of compliance that was allegedly submitted on its behalf by the City of Seattle, Washington. In light of this additional information, FRA will treat the request for waiver of compliance as having been solely filed by the City of Seattle, Washington.

Issued in Washington, DC on May 28, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E8-12410 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

#### Docket Number FRA-2008-0056

*Applicant:* Utah Transit Authority, Ms. Jennifer Rigby, General Counsel, 3600 South 700 West, P.O. Box 30810, Salt Lake City, Utah 84130.

The Utah Transit Authority (UTA) seeks relief from the requirements of the Rules, Standards, and Instructions, Title 49 CFR Part 236, Section 236.310, Signal governing approach to home signal, for its planned commuter rail system "FrontRunner", to the extent that UTA be permitted to utilize cab signals in place of wayside approach signals to home signals. The location of the request is the entire current and planned FrontRunner system. Phase 1 will be approximately 44 miles between Pleasant View, in Weber County, and Salt Lake City, Utah.

Applicant's justification for relief:

(1) The wayside portion of the automatic train control system continually monitors the track conditions ahead of a train. These conditions are continually transmitted to the train by the cab signals and impose the proper speed limit based upon the conditions that exist in advance of the train.

(2) There are 21 control points located on phase 1 of the FrontRunner system. There are no roadway signals in approach to these control point locations. Rather, the cab signal system will register the approach to a control point and display a cab signal to the operator. Visibility of cab signals is superior to that of roadway signals because the signal aspects are located within the operating cab in clear view

of the operator where visibility is not hampered by weather or debris. The cab signal system permits automatic enforcement of adherence to speed limits and to the proper approach to the home signal. If the operator does not respond to the cab signal appropriately, an irrevocable penalty brake application will be provided.

(3) The cab signal system design as implemented provides an equivalent, if not higher, level of safety than that required under Section 236.310 because the visibility of cab signals is superior to that of roadway signals. Moreover, the cab signal system continually monitors the adherence to the speed limit and automatically warns the operator when the limit is exceeded and implements a penalty brake application if the operator fails to take appropriate action. Accordingly, relief from the requirements of Section 236.310 is justified.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and it shall contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning these proceedings should be identified by Docket Number FRA-2008-0056 and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications

concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on May 29, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E8–12406 Filed 6–3–08; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0106]

#### NHTSA's Activities Under the United Nations Economic Commission for Europe 1998 Global Agreement; Electronic Stability Control

**AGENCY:** National Highway Traffic Safety Administration (NHTSA).

**ACTION:** Request for comments.

**SUMMARY:** NHTSA is issuing this notice to publish the schedule of upcoming meetings of WP.29 and its working parties of experts for the remainder of calendar year and to inform the public that a vote to establish a Global Technical Regulation (GTR) on Electronic Stability Control is planned for the June 2008 session of the World Forum for Harmonization of Vehicle Regulations (WP.29). In anticipation of this, NHTSA is requesting comment to inform its decision for the vote.

**DATES:** Written comments may be submitted to this agency by June 20, 2008.

**ADDRESSES:** You may submit comments [identified by DOT Docket No. NHTSA–2008–0106] by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1–800–647–5527.

- *Fax:* 202–493–2251.

*Instructions:* All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ezana Wondimneh, Division Chief, International Policy and Harmonization (NVS–133), National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; phone (202) 366–0846, fax (202) 493–2280.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. List of Meetings of WP.29 and Its Working Parties of Experts
- II. Electronic Stability Control

#### I. List of Meetings of WP.29 and Its Working Parties of Experts

The following lists meetings of WP.29 and its subsidiary working parties of experts for vehicle safety for the remainder of calendar year 2008. In addition to the below meetings, working parties of experts may schedule, if necessary, informal sessions outside their regular schedule in order to address technical matters specific to GTRs under consideration. The formation and timing of these groups are recommended by the sponsor and chair of the group and are approved by WP.29

and AC.3. The schedule and place of meetings are made available to interested parties in proposals and periodic reports which are posted on the Web site of WP.29. Note that this schedule supersedes the one published in the last **Federal Register** notice (71 FR 59582).

#### 2008 Schedule of Meetings of WP.29 and Its Working Parties of Experts

##### June

23—Administrative Committee for the Coordination of Work (WP.29/AC.2) (97th session).

24–27—World Forum for Harmonization of Vehicle Regulations (WP.29) (145th session) and Administrative Committee of the 1958 Agreement (AC.1) (39th session) and Executive Committee of the 1998 Global Agreement (AC.3) (23rd session).

##### September

16–19—Working Party on Brakes and Running Gear (GRRF) (64th session).

29–Oct 1—Working Party on Lighting and Light Signaling (GRE) (60th session).

##### October

21–24—Working Party on General Safety Provisions (GRSG) (95th session).

##### November

10—Administrative Committee for the Coordination of Work (WP.2/AC.2) (98th session).

11–14—World Forum for Harmonization of Vehicle Regulations (WP.29) (146th session); Administrative Committee of the 1958 Agreement (AC.1) (40th session); Executive Committee of the 1998 Global Agreement (AC.3) (24th session).

##### December

10–12—Working Party on Passive Safety (GRSP) (44th session).

## II. Electronic Stability Control

In early 2007, the United States proposed the development of a Global Technical Regulation (GTR) under the 1998 Agreement for Electronic Stability Control (ESC) systems. The proposal noted that studies from around the world indicate that ESC systems are very effective in reducing single-vehicle crashes involving light vehicles (such as passenger cars, multipurpose passenger vehicles, pickup trucks and mini buses weighing 4,536 kg or less). As an example, a study of ESC systems in the U.S. indicated that ESC systems could potentially reduce single-vehicle crashes of passenger cars by 34 per cent and single vehicle crashes of sport utility vehicles (SUVs) by 59 percent.

The proposal was accepted by the Executive Committee (AC.3) of the 1998 Global Agreement and was assigned to the Group of Experts for Brakes and Running Gear (GRRF) for technical development under the sponsorship of the U.S. and the European Commission.

The GRRF, through its regular sessions and several informal working group meetings chaired by the U.S. and the European Commission, worked over the past year to prepare the draft regulation and has forwarded it to the AC.3 for establishment through consensus voting by the Contracting Parties to the 1998 Global Agreement. The draft GTR can be found in the docket for this notice (ECE/TRANS/WP.29/2008/69). Noting that the performance, equipment, and other requirements of the GTR are based on the U.S. final rule (Federal Motor Vehicle Safety Standard No. 126), NHTSA is requesting comment on the draft document to inform its decision for the vote, which is scheduled for the June 2008 session of WP.29. It is expected that if the regulation is established and subsequently adopted by the Contracting Parties, the potential benefits that have been calculated for the U.S. market may very well be duplicated in many other countries and jurisdictions worldwide.

Publication of this information is in accordance with the NHTSA Statement of Policy regarding Agency Policy Goals and Public Participation in the Implementation of the 1998 Global Agreement on Global Technical Regulations.

Issued on: May 30, 2008.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E8-12499 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-59-P**

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## DEPARTMENT OF TRANSPORTATION

### Research & Innovative Technology Administration

#### Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Large Certificated Air Carriers

**AGENCY:** Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted

below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 19, 2008 (73 FR 14872).

**DATES:** Written comments should be submitted by July 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bernard Stankus, Office of Airline Information, RTS-42, Bureau of Transportation Statistics, Research and Innovative Technology Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, Telephone Number (202) 366-4387, Fax Number (202) 366-3383 or E-mail [bernard.stankus@dot.gov](mailto:bernard.stankus@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Bureau of Transportation Statistics (BTS)

*Title:* Report of Financial and Operating Statistics for Large Certificated Air Carriers.

*Type of Request:* Extension of a currently approved collection.

*OMB Control Number:* 2138-0013.

*Forms:* BTS Form 41.

*Affected Public:* U.S. large certificated air carriers.

*Abstract:* Part 241 requires large certificated air carriers to submit monthly, quarterly, semiannual and annual financial and operational reports to DOT.

*Estimated Annual Burden Hours:* 29,520 hours.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention BTS Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance

of the functions of the Department concerning consumer protection. Comments should address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 28, 2008.

**Marianne Seguin,**

*Acting Assistant Deputy Director, Office of Airline Information.*

[FR Doc. E8-12418 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-HY-P**

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## DEPARTMENT OF TRANSPORTATION

### Research & Innovative Technology Administration

#### Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

**AGENCY:** Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 19, 2008 (73 FR 14871).

**DATES:** Written comments should be submitted by July 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bernard Stankus, Office of Airline Information, RTS-42, Bureau of Transportation Statistics, Research and Innovative Technology Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, Telephone Number (202) 366-4387, Fax Number (202) 366-3383 or E-mail [bernard.stankus@dot.gov](mailto:bernard.stankus@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Bureau of Transportation Statistics  
(BTS)**

*Title:* Report of Financial and Operating Statistics for Small Aircraft Operators.

*Type of Request:* Extension of a currently approved collection.

*OMB Control Number:* 2138-0009.

*Forms:* BTS Form 298-C.

*Affected Public:* U.S. commuter and small certificated air carriers.

*Abstract:* Part 298 requires small certificated and commuter air carriers to submit quarterly financial and operational reports to DOT.

*Estimated Annual Burden Hours:* 2,560 hours.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention BTS Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department concerning consumer protection. Comments should address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 28, 2008.

**Marianne Seguin,**

*Acting Assistant Deputy Director, Office of Airline Information.*

[FR Doc. E8-12421 Filed 6-3-08; 8:45 am]

**BILLING CODE 4910-HY-P**

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Finance Docket No. 35146]

**Union Pacific Railroad Company—  
Temporary Trackage Rights  
Exemption—Illinois and Midland  
Railroad Company**

Illinois and Midland Railroad Company (IMRR) has agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company (UP) over IMRR's line between milepost 83.7 to milepost 87.1, a total distance of approximately 3.4 miles in Springfield, IL.<sup>1</sup>

The transaction is scheduled to be consummated on June 18, 2008, the effective date of this exemption (30 days after the exemption was filed). The temporary trackage rights will expire on or about June 30, 2008. The purpose of the temporary trackage rights is to facilitate the performance of maintenance work on UP lines.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any stay petition must be filed on or before June 11, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing

<sup>1</sup> UP concurrently filed, in STB Finance Docket No. 35145, a Verified Notice of Exemption for temporary overhead trackage rights via Illinois Central Railroad Company (CN). Together, the temporary trackage rights via IMRR and CN will form a contiguous route which would allow UP traffic to detour around maintenance-of-way activities on UP's line in Springfield, IL.

solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35146, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Gabriel S. Meyer, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: May 28, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-12423 Filed 6-3-08; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Finance Docket No. 35145]

**Union Pacific Railroad Company—  
Temporary Trackage Rights  
Exemption—Illinois Central Railroad  
Company**

Illinois Central Railroad Company (CN) has agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company (UP) extending from CN's connection with UP at IC Junction (near Isles) to CN's connection with Illinois and Midland Railroad Company at Avenue Tower (milepost 191.9), a total distance of approximately 4.6 miles in Springfield, IL.<sup>1</sup>

The transaction is scheduled to be consummated on June 19, 2008.<sup>2</sup> The temporary trackage rights will expire on or about June 25, 2008. The purpose of the temporary trackage rights is to facilitate the performance of maintenance work on UP lines.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be

<sup>1</sup> UP concurrently filed, in STB Finance Docket No. 35146, a Verified Notice of Exemption for temporary overhead trackage rights via Illinois and Midland Railroad Company (IMRR). Together, the temporary trackage rights via CN and IMRR will form a contiguous route which would allow UP traffic to detour around maintenance-of-way activities on UP's line in Springfield, IL.

<sup>2</sup> The exemption is scheduled to become effective on June 18, 2008 (30 days after the exemption was filed).

protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any stay petition must be filed on or before June 11, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35145, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Gabriel S. Meyer, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: May 28, 2008.

By the Board, David M. Kunschik, Director, Office of Proceedings.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8–12425 Filed 6–3–08; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Request for Public Comments, Bank Enterprise Award Program.

**SUMMARY:** This document invites comments from the public on certain programmatic and administrative aspects of the Community Development Financial Institutions Fund’s Bank Enterprise Award (BEA) Program, pursuant to the BEA Program regulations set forth at 12 CFR part 1806 (the Interim Rule). All materials submitted will be available for public inspection and copying.

**DATES:** All comments and submissions must be received by July 7, 2008.

**ADDRESSES:** Comments should be sent by mail to: Depository Institutions Program Advisor, CDFI Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; by e-mail to [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov); or by facsimile at (202) 622–7754. This is not a toll free number.

**FOR FURTHER INFORMATION CONTACT:** Information regarding the CDFI Fund and its programs may be downloaded from the CDFI Fund’s Web site at <http://www.cdfifund.gov>.

**SUPPLEMENTARY INFORMATION:** Through the BEA Program, the Community Development Financial Institutions Fund (CDFI Fund or the Fund) encourages Insured Depository Institutions to increase their activities in the form of loans, investments, services, and technical assistance provided within Distressed Communities, as well as investments in Community Development Financial Institutions (CDFIs) through grants, stock purchases, loans, deposits, and other forms of financial and technical assistance. The increase in these activities is measured from a Baseline Period to an Assessment Period. Each capitalized term used in this Request for Public Comments is more fully defined either in the Interim Rule or the Notice of Funds Availability for the FYs 2007 and 2008 funding rounds of the BEA Program (72 FR 189) (the NOFA). Through this notice, the CDFI Fund is seeking comments from the public regarding certain programmatic and administrative aspects of the CDFI Fund’s BEA Program. Commentators are encouraged to consider, at a minimum, the following issues:

(1) *Terms and Conditions of Award:* Under the BEA Program, the Awardee enters into an Award Agreement with the CDFI Fund that sets forth the terms and conditions of the award. Currently, the Award Agreement does not require an Awardee to use the award for a specific purpose or activity. Furthermore, the Award Agreement does not require BEA Awardees to

report to the Fund on the use of their awards.

(a) *Use of BEA Awards:* The Fund is considering revisions to the BEA Program that would require Awardees to use their awards for Qualified Activities. The Fund makes BEA awards to selected Applicants that increase their Qualified Activities during a specified period. Qualified Activities are defined in the Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103(mm)). CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities (12 CFR 1806.103(p)). Distressed Community Financing Activities include Affordable Housing Loans; Affordable Housing Development Loans and related Project Investments; Education Loans; Commercial Real Estate Loans and related Project Investments; Home Improvement Loans; and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). Service Activities include Deposit Liabilities; Financial Services; Community Services; Targeted Financial Services; and Targeted Retail Savings/Investment Products (12 CFR 1806.103(oo)).

(i) What information should the CDFI Fund collect from Awardees in order to monitor the use of BEA awards for Qualified Activities?

(ii) Are there additional types of Qualified Activities that should be included in the current list of Qualified Activities? If so, please describe. Should the CDFI Fund revise the current definitions of any Qualified Activities?

(iii) Are there other categories of activities in which the CDFI Fund should require Awardees to deploy their BEA awards?

(iv) What is a reasonable timeframe to require Awardees to deploy BEA award proceeds as Qualified Activities?

(v) How should the CDFI Fund administer this deployment requirement? Please comment on any application modifications, Award Agreement modifications, and compliance and monitoring policies that should be modified or created to support a deployment requirement.

(b) *BEA Award Reporting Requirements:*

(i) CDFI Program awardees and New Markets Tax Credit (NMTC) Program allocates are required to report annual performance data through the CDFI Fund’s Community Investment Impact System (CIIS). CDFIs that receive a Financial Assistance award through the CDFI Program are required to provide such data for three years; NMTC

Program allocatees are required to report their activities for the entire period of their tax credit allocation period (over approximately seven years). The BEA Program has no such performance data reporting requirement. Should the CDFI Fund require BEA Awardees to report their performance activities annually through CIIS? How many years should BEA Awardees be required to report such data?

(ii) The BEA Application Report of Transactions spreadsheet includes a field for Applicants to report impacts for Distressed Community Financing Activities. Currently, this reporting request is optional for Applicants. Should the Fund require Applicants to report the estimated impact for each Qualifying Activity submitted for award consideration? Should the Fund revise the current definitions of the Distressed Community Financing Activity impacts? If so, please provide relevant impact definitions for the current Qualifying Activities.

(2) *Eligible CDFI Partners*: Currently, the CDFI Fund requires eligible CDFI Partners to submit BEA Signature Pages and Distressed Community maps for each funding round in which they receive support through an Applicant's CDFI Related Activities. Should the CDFI Fund consider all certified CDFIs as eligible CDFI Partners, and eliminate all or any CDFI Partner submission requirements?

(3) *Calculating the Estimated Award Amount*: The Interim Rule describes the process for selecting Applicants to receive BEA Program awards and determining award amounts. Currently there is no minimum amount for BEA awards. Should the CDFI Fund establish a minimum award threshold? If so, what should it be?

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Dated: May 29, 2008.

**Donna J. Gambrell,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. E8-12515 Filed 6-3-08; 8:45 am]

**BILLING CODE 4810-70-P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### **Surety Companies Acceptable on Federal Bonds—Termination: Capital City Insurance Company, Inc**

**AGENCY:** Financial Management Service, Fiscal Service, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** This is Supplement No. 15 to the Treasury Department Circular 570, 2007 Revision, published July 2, 2007, at 72 FR 36192.

**FOR FURTHER INFORMATION CONTACT:** Surety Bond Branch at (202) 874-6850.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Certificate of Authority issued by the Treasury to the above-named company under 31 U.S.C. 9305 to qualify as acceptable surety on Federal bonds was terminated effective May 1, 2008. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 ("Circular"), 2007 Revision, to reflect this change.

With respect to any bonds currently in force with this company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from this company, and bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at <http://www.fms.treas.gov/c570>.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: May 29, 2008.

**Vivian L. Cooper,**

*Director, Financial Accounting and Services Division.*

[FR Doc. E8-12427 Filed 6-3-08; 8:45 am]

**BILLING CODE 4810-35-M**

## DEPARTMENT OF VETERANS AFFAIRS

### **Privacy Act of 1974; System of Records**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Amendment of System of Records; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published a notice in the **Federal Register** on May 8, 2008 (73 FR 26192), amending a system of records by renaming and renumbering the system. The document inadvertently contained two typographical errors, and this document corrects those errors.

**DATES:** *Effective Date:* This correction is effective June 4, 2008.

**FOR FURTHER INFORMATION CONTACT:** Stephania H. Putt, Veterans Health Administration (VHA), Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (704) 245-2492.

**SUPPLEMENTARY INFORMATION:** We published an amendment to a system of records formerly entitled "Healthcare Eligibility Records-VA" (89VA19) on May 8, 2008 (73 FR 26192). That document renamed and renumbered the system of records to "Income Verification Records-VA" (89VA16), as well as revised the "Description of Systems of Records"; "Routine Use Disclosures of Data in the System"; "Categories of Records in the System"; "Routine Uses of Records Maintained in the System"; and "Retrievability." In one place we inadvertently omitted the new system number after the new title and in two other places the old system number appears. This document corrects those errors.

In FR Doc. E8-10230 published on May 8, 2008 (73 FR 26192), make the following corrections:

On page 26193, first column, in the paragraph entitled "I. Description of Revised System of Records" insert the new system number "(89VA16)" after the end quote mark of "Income Verification Records-VA" (89VA16). On the same page, third column, immediately above and below the SYSTEM NAME heading remove "89VA19" and add, in each place, "89VA16".

Dated: May 29, 2008.

**Robert C. McFetridge,**

*Assistant to the Secretary for Regulation Policy and Management.*

[FR Doc. E8-12381 Filed 6-3-08; 8:45 am]

**BILLING CODE 8320-01-P**



# Federal Register

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**Wednesday,  
June 4, 2008**

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## **Part II**

### **The President**

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**Proclamation 8264—Black Music Month,  
2008**

**Proclamation 8265—Great Outdoors  
Month, 2008**

**Proclamation 8266—Italian Independence  
Day, 2008**

**Proclamation 8267—National Child's Day,  
2008**



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**Presidential Documents**

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**Title 3—****Proclamation 8264 of May 30, 2008****The President****Black Music Month, 2008****By the President of the United States of America****A Proclamation**

America's diverse musical heritage exemplifies the creativity and optimism of our Nation. During Black Music Month, we celebrate the extraordinary talents and creativity of African-American singers, musicians, and composers whose achievements have enriched our culture and enhanced our lives.

For generations, African-American artists have created music that communicates across racial boundaries and expresses both joy and sorrow. When facing the cruelty of slavery and injustice, African Americans lifted spirituals to the heavens, bringing comfort to troubled souls. These timeless declarations of hope and faith evolved into the more modern genres of gospel, blues, ragtime, and jazz, and they are given voice in the musical genius of Scott Joplin, Marian Anderson, Eubie Blake, and Mahalia Jackson. During the Civil Rights era, African-American musicians such as Duke Ellington, Muddy Waters, and Ruth Brown conveyed the struggles of their communities while bringing people of all backgrounds together. Today, this music continues to inspire America's citizens and advance its creative spirit.

Throughout the course of American history, black musicians have used their great talents to share the richness of the African-American experience and to develop a uniquely American style of music enjoyed throughout the world. This month, we honor the pioneers of African-American music and today's contemporary artists who have enriched the lives of people everywhere.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as Black Music Month. I encourage all Americans to learn more about the history of black music and to enjoy the great contributions of African-American singers, musicians, and composers.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.



[FR Doc. 08-1322

Filed 6-3-08; 8:59 am]

Billing code 3195-01-P

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## Presidential Documents

**Proclamation 8265 of May 30, 2008**

**Great Outdoors Month, 2008**

**By the President of the United States of America**

### **A Proclamation**

From the Appalachian Mountains to the Grand Canyon, America is blessed with places of natural beauty where our citizens can discover the full splendor of this great Nation. During Great Outdoors Month, our Nation celebrates the grandeur of our open spaces, strengthens our commitment to preserving this heritage, and reaffirms our dedication to protecting our air, water, and lands.

My Administration remains dedicated to wise stewardship of the environment, and we will continue to protect our Nation's natural wonders. This past year, we have made great strides in helping wildlife thrive and in restoring habitat for migratory birds through cooperative conservation. Working with State and tribal officials, we are preserving important wildlife habitats and expanding the National Wildlife Refuge system. Citizens can visit [takepride.gov](http://takepride.gov) to learn more about opportunities to care for our environment.

Great Outdoors Month is an opportunity to honor those who work to keep our natural places beautiful and to celebrate some of our country's favorite outdoor pastimes. These activities encourage a healthy lifestyle and give Americans pride in the great American landscape. As responsible stewards of our natural resources, we can help ensure that the great outdoors will be available for enjoyment by generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2008 as Great Outdoors Month. I call on all Americans to observe this month with appropriate programs and activities, and to take time to visit and enjoy the great outdoors.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.



[FR Doc. 08-1323

Filed 6-3-08; 8:59 am]

Billing code 3195-01-P

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## Presidential Documents

**Proclamation 8266 of May 30, 2008**

### **Italian Independence Day, 2008**

**By the President of the United States of America**

#### **A Proclamation**

On Italian Independence Day, we recognize our friendship with the nation of Italy, and we celebrate the generations of Italian Americans who have made significant contributions to our national character.

June 2, 1946, marks the birth of the Italian Republic, the long-awaited triumph of liberty and democracy in an ancient land. Today, Italy is a friend of the United States and an ally of freedom and peace. Italians and Americans join together on Italian Independence Day to commemorate Italy's independence and celebrate its rich history.

The people of our two countries share special ties rooted in history, friendship, and family. Millions of American citizens have Italian ancestry, and they and their forebears have helped shape our way of life. Americans are grateful for the many contributions Italians and Italian Americans have made to our history and our culture, and we are proud that our nations are allies in the cause of peace and security around the world.

In celebrating Italian Independence Day, we commemorate the freedoms our countries hold dear, and we honor the generations of Italian Americans who came to our shores seeking opportunity. They have helped to shape our great Nation and influenced American life for the better.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2, 2008, as Italian Independence Day. I call upon all Americans to observe this day by celebrating the contributions of Italians and Italian Americans to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

A handwritten signature in black ink, appearing to be "George W. Bush", written in a cursive style.

[FR Doc. 08-1324

Filed 6-3-08; 8:59 am]

Billing code 3195-01-P

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## Presidential Documents

**Proclamation 8267 of May 30, 2008**

**National Child's Day, 2008**

**By the President of the United States of America**

### **A Proclamation**

America has a duty to provide its children with the support and skills they need to become the next generation of responsible leaders. On National Child's Day, we underscore the importance of fostering the love, encouragement, and protection that empowers our children to become happy and successful adults.

Children are a precious gift who need the love and support of family and friends to lead lives rich in promise and fulfillment. Parents are the most vital part of a child's life, providing them with the guidance and discipline to make the right choices and understand the consequences of their actions. Family, teachers, and others inspire our youth to use their talents and to become confident and caring adults. Religious and community leaders also have a role in teaching values and encouraging children to love their neighbors just as they would like to be loved themselves. Together, we can all help our children be prepared to meet life's challenges and realize the great promise of our country.

My Administration continues to support programs that help prepare America's youth for the opportunities ahead. The No Child Left Behind Act requires that every child have access to a quality education. We have made significant progress toward that goal across the country, with students achieving record math and reading scores. The America COMPETES Act, which was built upon my American Competitiveness Initiative, helped strengthen our goal of staying competitive within the global economy. The Helping America's Youth initiative, led by First Lady Laura Bush, encourages adults to work to help our young people reach their full potential.

On National Child's Day and throughout the year, we honor the boys and girls of America and show our gratitude to those who work to support them. This day is a reminder to us all that our commitment to children helps make our country a better place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 1, 2008, as National Child's Day. I call upon all our citizens to celebrate National Child's Day with appropriate ceremonies and activities. I also urge all Americans to dedicate time and energy to educating our youth and providing them with a safe and caring environment.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.



[FR Doc. 08-1325

Filed 6-3-08; 8:59 am]

Billing code 3195-01-P

# Reader Aids

Federal Register

Vol. 73, No. 108

Wednesday, June 4, 2008

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Privacy Act Compilation **741-6064**

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## FEDERAL REGISTER PAGES AND DATE, JUNE

31351-31604..... 2  
31605-31748..... 3  
31749-31928..... 4

## CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

<b>3 CFR</b>	117.....31610
	165.....31363, 31612
<b>Proclamations:</b>	<b>Proposed Rules:</b>
8262.....31745	100.....31394
8263.....31747	165.....31397, 31652, 31782,
8264.....31921	31785
8265.....31923	
8266.....31925	<b>34 CFR</b>
8267.....31927	<b>Proposed Rules:</b>
	222.....31592
<b>7 CFR</b>	
955.....31605	<b>37 CFR</b>
	<b>Proposed Rules:</b>
<b>9 CFR</b>	1.....31655
<b>Proposed Rules:</b>	41.....31655
130.....31771	201.....31399
	<b>38 CFR</b>
<b>10 CFR</b>	3.....31753
50.....31607	21.....31742
	<b>40 CFR</b>
<b>12 CFR</b>	52.....31366, 31368, 31614
<b>Proposed Rules:</b>	60.....31372, 31376
535.....31648	141.....31616
706.....31648	180.....31753
	261.....31756
<b>14 CFR</b>	271.....31634
27.....31608	302.....31756
29.....31608	<b>Proposed Rules:</b>
39.....31351, 31353, 31355,	52.....31415, 31663
31749	60.....31416
71.....31608	180.....31788
<b>Proposed Rules:</b>	<b>42 CFR</b>
39.....31780	<b>Proposed Rules:</b>
	5.....31418
<b>15 CFR</b>	51c.....31418
30.....31548	<b>49 CFR</b>
	195.....31634
<b>21 CFR</b>	<b>Proposed Rules:</b>
522.....31357	571.....31663
801.....31358	
<b>Proposed Rules:</b>	<b>50 CFR</b>
801.....31390	300.....31380
	635.....31380
<b>23 CFR</b>	648.....31769, 31770
774.....31609	679.....31646
	<b>Proposed Rules:</b>
<b>28 CFR</b>	17.....31418, 31665
<b>Proposed Rules:</b>	216.....31666
100.....31648	622.....31669
	700.....31807
<b>30 CFR</b>	
<b>Proposed Rules:</b>	
950.....31392	
<b>33 CFR</b>	
100.....31360	

**REMINDERS**

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

**RULES GOING INTO EFFECT JUNE 4, 2008****AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Vidalia Onions Grown in Georgia; Increased Assessment Rate; published 6-3-08

**ENVIRONMENTAL PROTECTION AGENCY**

Tolerance Exemption: 2-Oxepanone, Homopolymer; published 6-4-08

**FEDERAL COMMUNICATIONS COMMISSION**

Carriage of Digital Television Broadcast Signals; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues; published 5-5-08

**HOMELAND SECURITY DEPARTMENT****Coast Guard**

Security Zone: Portland Rose Festival on Willamette River; published 5-16-08

Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo; published 5-5-08

**VETERANS AFFAIRS DEPARTMENT**

Disease Subject to Presumptive Service Connection; Correction; published 6-4-08

**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Tuberculosis in Cattle and Bison; State and Zone Designations; Minnesota; comments due by 6-9-08; published 4-9-08 [FR E8-07346]

**AGRICULTURE DEPARTMENT****Agricultural Research Service**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-9-08; published 4-4-08 [FR E8-07048]

**COMMERCE DEPARTMENT****National Telecommunications and Information Administration**

Proposal to Waive the Household Eligibility and Application Process of the Coupon Program

For Individuals Residing in Nursing Homes and Households that Utilize Post Office Boxes; comments due by 6-9-08; published 4-24-08 [FR E8-08869]

**EDUCATION DEPARTMENT**

Privacy Act Regulations; comments due by 6-9-08; published 5-8-08 [FR E8-10110]

**ENERGY DEPARTMENT**

Application to Export Electric Energy: Saracen Energy Partners, LP; comments due by 6-9-08; published 5-9-08 [FR E8-10368]

**ENERGY DEPARTMENT****Federal Energy Regulatory Commission**

Environmental Assessment; Availability: Natural Gas Pipeline Company of America; Proposed Herscher-Galesville Expansion Project; comments due by 6-11-08; published 5-16-08 [FR E8-11028]

Modification of Interchange and Transmission Loading Relief Reliability Standards etc.; comments due by 6-12-08; published 4-28-08 [FR E8-09013]

Modification of Interchange and Transmission Loading Relief Reliability Standards, etc.; comments due by 6-12-08; published 5-27-08 [FR E8-11694]

**ENVIRONMENTAL PROTECTION AGENCY**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-13-08; published 5-14-08 [FR E8-10827]

Approval and Promulgation of Air Quality Implementation

Plans; PA; Section Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Sect; comments due by 6-13-08; published 5-14-08 [FR E8-10815]

Approval and Promulgation of Air Quality Implementation Plans; PA; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Susq; comments due by 6-13-08; published 5-14-08 [FR E8-10809]

Approval and Promulgation of Air Quality Implementation Plans: Columbia County, PA; Section 110(a)(1) Plan and 2002 Base-Year Inventory; comments due by 6-13-08; published 5-14-08 [FR E8-10811]

Somerset County, PA; Section 110(a)(1) 8-Hour Ozone Maintenance and 2002 Base-Year Inventory; comments due by 6-13-08; published 5-14-08 [FR E8-10813]

Approval and Promulgation of State Implementation Plans: States of South Dakota and Wyoming; Interstate Transport of Pollution; comments due by 6-9-08; published 5-8-08 [FR E8-10100]

Environmental Statements; Notice of Intent: Coastal Nonpoint Pollution Control Programs; States and Territories—

Florida and South Carolina; Open for comments until further notice; published 2-11-08 [FR 08-00596]

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); comments due by 6-9-08; published 4-23-08 [FR E8-08810]

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); comments due by 6-9-08; published 4-23-08 [FR E8-08811]

Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, etc.; comments due by 6-11-08; published 5-12-08 [FR E8-10509]

Proposed CERCLA Administrative Cashout Settlement:

Elite Laundry Superfund Site; Jaffrey, NH; comments due by 6-9-08; published 5-8-08 [FR E8-10310]

Revisions to the California State Implementation Plan; comments due by 6-9-08; published 5-9-08 [FR E8-10405]

Standards of Performance for Coal Preparation Plants; comments due by 6-12-08; published 4-28-08 [FR E8-09104]

**HEALTH AND HUMAN SERVICES DEPARTMENT****Centers for Medicare & Medicaid Services**

Medicare Program: Proposed Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; comments due by 6-13-08; published 4-30-08 [FR 08-01135]

**HOMELAND SECURITY DEPARTMENT****Coast Guard**

Anchorage Regulations: Port of New York and Vicinity; comments due by 6-9-08; published 5-8-08 [FR E8-10259]

**HOMELAND SECURITY DEPARTMENT****Federal Emergency Management Agency**

Proposed Flood Elevation Determinations; comments due by 6-9-08; published 3-10-08 [FR E8-04638]

**HOMELAND SECURITY DEPARTMENT**

Extending Period of Optional Practical Training by 17 Months for F-1 Nonimmigrant Students, etc.; comments due by 6-9-08; published 4-8-08 [FR E8-07427]

Period of Admission and Stay for Canadian and Mexican Citizens Engaged in Professional Business Activities; comments due by 6-9-08; published 5-9-08 [FR E8-10343]

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-9-08; published 5-8-08 [FR E8-10333]

Application and Reporting for Hospital Project Mortgage Insurance; comments due

by 6-12-08; published 5-13-08 [FR E8-10532]

Real Estate Settlement Procedures Act (RESPA) Proposed Rule to Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs: Extension of; comments due by 6-12-08; published 5-12-08 [FR E8-10634]

Self-Help Homeownership Opportunity Program Grant Monitoring; comments due by 6-12-08; published 5-13-08 [FR E8-10534]

**INTERIOR DEPARTMENT****Fish and Wildlife Service**

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat:  
Acanthomintha ilicifolia (San Diego thornmint); comments due by 6-12-08; published 5-13-08 [FR E8-10499]

**JUSTICE DEPARTMENT****Drug Enforcement Administration**

Control of Immediate Precursor Used in Illicit Manufacture of Fentanyl as a Schedule II Controlled Substance; comments due by 6-9-08; published 4-9-08 [FR E8-07391]

**LABOR DEPARTMENT****Mine Safety and Health Administration**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-9-08; published 4-8-08 [FR E8-07259]

**LABOR DEPARTMENT****Occupational Safety and Health Administration**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-13-08; published 4-14-08 [FR E8-07785]

**POSTAL SERVICE**

Revised Standards for Postage and Fee Refunds; comments due by 6-9-08; published 5-9-08 [FR E8-10358]

**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

Airworthiness Directives:  
BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes; comments due by 6-12-08; published 5-13-08 [FR E8-10648]

APEX Aircraft Model CAP 10 B Airplanes; comments due by 6-9-08; published 5-9-08 [FR E8-10348]

Avidyne Corporation Primary Flight Displays; comments due by 6-13-08; published 4-14-08 [FR E8-07802]

Boeing Model 737-600, -700, -700C, -800, -900, and 900ER Series Airplanes; comments due by 6-9-08; published 4-24-08 [FR E8-08911]

Boeing Model 737 300; 400; and 500 Series Airplanes; comments due by 6-9-08; published 4-24-08 [FR E8-08913]

Boeing Model 737 Airplanes; comments due by 6-12-08; published 4-28-08 [FR E8-09193]

Boeing Model 747 100, 747 100B, 747 100B SUD, 747 200B, 747 200C, 747 200F, etc. Series Airplanes; comments due by 6-12-08; published 4-28-08 [FR E8-09122]

Bombardier Model CL 600 2C10 (Regional Jet Series 700, 701, & 702) Airplanes, Model CL 600 2D15, etc.; comments due by 6-9-08; published 5-8-08 [FR E8-10219]

Bombardier Model CL 600 2C10 (Regional Jet Series 700, 701, & 702) and Model CL 600 2D24 (Regional Jet Series 900) Airplanes; comments due by 6-12-08; published 5-13-08 [FR E8-10647]

Cessna Aircraft Company Models 175 and 175A Airplanes; comments due by 6-9-08; published 4-8-08 [FR E8-07258]

EADS SOCATA Model TBM 700 Airplanes; comments due by 6-9-08; published 5-9-08 [FR E8-10066]

Empresa Brasileira de Aeronautica S.A. Model EMB 135 Airplanes and Model EMB 145, 145ER, 145MR, et al.; comments due by 6-9-08; published 5-8-08 [FR E8-09890]

Lycoming Engines IO, et al.; comments due by 6-13-08; published 4-14-08 [FR E8-07574]

Pacific Aerospace Limited Model FU-24 Airplanes; comments due by 6-12-08; published 5-13-08 [FR E8-10649]

Teledyne Continental Motors (TCM) IO-520, et al.; comments due by 6-10-

08; published 4-11-08 [FR E8-07711]

Amendment of Class E Airspace; Salyer Farms, CA; comments due by 6-9-08; published 4-23-08 [FR E8-08727]

Proposed Establishment of Class E Airspace; Carson City, NV; comments due by 6-9-08; published 4-23-08 [FR E8-08725]

Proposed Establishment of Low Altitude Area Navigation Routes (T-Routes); Southwest Oregon; comments due by 6-13-08; published 4-29-08 [FR E8-09245]

Proposed Release of Land: Elkins Randolph County Airport; Elkins, WV; comments due by 6-13-08; published 5-14-08 [FR E8-10428]

**TRANSPORTATION DEPARTMENT****Federal Motor Carrier Safety Administration**

Commercial Driver's License Testing and Commercial Learner's Permit Standards; comments due by 6-9-08; published 4-9-08 [FR E8-07070]

**TRANSPORTATION DEPARTMENT****Pipeline and Hazardous Materials Safety Administration**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-9-08; published 5-9-08 [FR E8-10413]

**TREASURY DEPARTMENT****Internal Revenue Service**

Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property; comments due by 6-9-08; published 3-10-08 [FR E8-04466]

Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property; Correction; comments due by 6-9-08; published 4-15-08 [FR Z8-04466]

**VETERANS AFFAIRS DEPARTMENT**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 6-12-08; published 5-13-08 [FR E8-10530]

Assistance to States in Hiring and Retaining Nurses at

State Veterans Homes; comments due by 6-10-08; published 4-11-08 [FR E8-07641]

Burial Benefits; comments due by 6-9-08; published 4-8-08 [FR E8-07234]

**LIST OF PUBLIC LAWS**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

**H.R. 2356/P.L. 110-239**

To amend title 4, United States Code, to encourage the display of the flag of the United States on Father's Day. (June 3, 2008; 122 Stat. 1559)

**H.R. 2517/P.L. 110-240**

Protecting Our Children Comes First Act of 2007 (June 3, 2008; 122 Stat. 1560)

**H.R. 4008/P.L. 110-241**

Credit and Debit Card Receipt Clarification Act of 2007 (June 3, 2008; 122 Stat. 1565)

**S. 2829/P.L. 110-242**

To make technical corrections to section 1244 of the National Defense Authorization Act for Fiscal Year 2008, which provides special immigrant status for certain Iraqis, and for other purposes. (June 3, 2008; 122 Stat. 1567)

**S.J. Res. 17/P.L. 110-243**

Directing the United States to initiate international discussions and take necessary steps with other Nations to negotiate an agreement for managing migratory and transboundary fish stocks in the Arctic

Ocean. (June 3, 2008; 122 Stat. 1569)

Last List June 2, 2008

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